



Llywodraeth Cymru
Welsh Government

Welsh Government Integrated Impact Assessment Summary

Title of proposal:

*Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services
(Miscellaneous Amendments) Regulations 2020*

Department:

Health and Social Services

Minister responsible:

Deputy Minister for Health and Social Services

Start Date:

February 2020

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What action is the Welsh Government considering and why?

This impact assessment relates to the draft *Regulation and Inspection of Social Care (Wales) Act 2016 and Regulated Services (Miscellaneous Amendments) Regulations 2020* (“the 2020 Regulations”) which amend the Regulation and Inspection of Social Care (Wales) Act 2016 (“The 2016 Act”) and make a number of amendments to regulations affecting the social care workforce and social care services.

Due to the range of areas covered in these Regulations this Impact Assessment has been grouped into two parts – the social care workforce and social care services.

The social care workforce

The 2020 Regulations amend:

- *The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017* to mandate the registration of domiciliary care workers from 1 April 2020 and place a requirement on service providers to employ and/or engage under a contract for services only those individuals who are registered with Social Care Wales (SCW); and
- *The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations* extend the register of social care workers, maintained by Social Care Wales, to include individuals employed or engaged under a contract for services in connection with a care home service provided wholly or mainly for adults and a residential family centre service from 1 April 2020. The Regulations also include an extension to the requirement already in place that where a service provider employs a person, other than as a manager, to provide care and support in connection with a care home provided wholly or mainly for children or a secure accommodation service that the person must be registered as a social care worker with Social Care Wales. They also require that any person ‘engaged under a contract for service’ by a service provider (of a care home service provided wholly or mainly for children or a secure accommodation service) is registered with Social Care Wales.

The aim of these proposed amendments is to deliver the Welsh Government’s commitment to professionalise the social care workforce and increase public assurance that these categories of social care workers have the skills and qualifications to do their jobs in a professional, compassionate manner and that they are working to agreed Codes of Conduct and Professional Practice. These proposals mirror provisions already in place for the employment of managers of care homes for adults; care homes for children (and workers); and domiciliary support services and seek to raise the profile of the sector.

Social care services

The 2020 Regulations also amend the *Regulated Services (Registration) (Wales) Regulations 2017* to enable Care Inspectorate Wales (CIW), acting on behalf of the Welsh Ministers, to obtain information from all directors, trustees and members of boards or committees (other than a local authority or Local Health Board) when registering as providers of regulated services. Currently, CIW is only able to request this information from individuals, partners and those applying on behalf of service provider organisations.

The 2020 Regulations also use the regulation-making power under section 9(9) of the 2016 Act to vary the evidence to which CIW (acting on behalf of the Welsh Ministers) should have regard in deciding whether a person is fit and proper to be a service provider.

In addition, the 2020 Regulations will amend the suite of service provider regulations, made under sections 27 and 28 of the 2016 Act, which place requirements on service providers and Responsible Individuals of regulated services. The amendments make it clear that service providers must notify CIW when there are changes to their trustees or members of boards or committees (dependent on their organisational structure). Currently notifications are only required of service providers which are partnerships or corporate bodies.

It is intended that the 2020 Regulations will be laid before the National Assembly for Wales in February 2020, with a proposed commencement date of 1 April 2020.

Impact

Social care workforce

The proposals support the Welsh Government's national strategy: "Prosperity for All" to prioritise social care as a sector of national importance and to raise the status of the profession. That is why we feel it is important that the Welsh public recognises the important and significant contribution social care makes to the health and well-being of vulnerable people in our society. As outlined within "A Healthier Wales" we want a health and social care system that works together so that people receiving health and care from different organisations experience services in a seamless way. We want to ensure that, regardless of which organisation is providing care and support that they uphold the same values in relation to all aspects of society, irrespective of age, gender, race, disability, sexual orientation, family income or location.

The Welsh Government's aim in professionalising the workforce is to ensure that the social care workforce is widely recognised as dedicated, highly skilled, well-trained and qualified to deliver professional and compassionate care. Through registration, we want to provide the workforce with greater opportunities to continue their development through greater access to the resources and training provided through the workforce regulator. Our proposals to register the workforce also seek to reassure the public that, where standards fall short or failures occur, people are accountable to a regulatory body in just the same way that their healthcare colleagues are.

Social Care services

CIW considers that obtaining information from the key decision makers of service provider organisations (who may be directors, trustees or members of boards or committees, depending on the organisation type) about their previous involvement in running regulated services is an important factor in determining the fitness of service providers that are organisations. This will enable CIW to lift the corporate veil and assess the fitness of those people who are acting as the "controlling mind" of the organisation seeking registration.

Using the regulation-making power under section 9(9) of the 2016 Act to vary the evidence to which Welsh Ministers (in practice, CIW) must have regard in determining the fitness of service providers will enable CIW to take into account the information set out above when determining the fitness of a service provider - i.e. information from the top tier of decision makers of corporate bodies and unincorporated bodies (other than local authorities or local health boards) about previous applications for registration, or registrations, under the 2016 Act, the Care Standards Act 2000 or other relevant Acts in the rest of the UK.

We also consider it important that CIW should be notified about any changes to trustees and members of boards or committees to enable CIW to maintain sufficient oversight of all service providers, regardless of their legal entity

Conclusion

1. How have people most likely to be affected by the proposal been involved in developing it?

The Welsh Government undertook a 12 week consultation between 26 July and 16 October 2019. The consultation documents were published bilingually on the Welsh Government's website and contained a response form which could either be submitted via email or in hard copy.

All versions of the consultation were made available on the following web page –

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

<https://llyw.cymru/rhoi-deddf-rheoleiddio-ac-arolygu-gofal-cymdeithasol-cymru-2016-ar-waith>

The details of the consultation were circulated to a range of key stakeholders and representative bodies including older people (i.e. Age Cymru), children's groups (i.e. Voices from Care Cymru) disability groups (i.e. Disability Wales) and minority and ethnic groups (i.e. Race Council Wales) and the Welsh language Commissioner.

We also held two consultation events in Cardiff and Wrexham to present the draft proposals to stakeholders and to hear any questions or comments directly. A total of 20 interested parties from across the public, private and voluntary sectors attended these events, which sought to encourage stakeholders to respond and to enable those attending to:

- gain an overview of the draft legislative framework and key changes it will bring into effect;
- check their understanding of the proposals and seek clarity, if needed; and
- consider the potential implications for their role and organisation.

The Welsh Government also several other forums such as the Care Home Steering Group and National Provider Forum in which to ask questions of key sector stakeholders and answer any initial queries on the draft regulations or the policy direction.

2. What are the most significant impacts, positive and negative?

Social Care Workforce

Positive impacts

The registration of the social care workforce is part of the Welsh Government's commitment to raise the profile of the social care sector and the vital role that it plays in maintaining the health and well-being of people who need care and support. The Regulations aim to ensure the workforce will have work to robust training and development frameworks and that they are signed up to the relevant Code of Practice to ensure that standards are maintained.

In terms of children and young people our assessment suggests that there will be a positive impact overall on this group as the registration of the workforce will improve the structures and training surrounding those that care for and support them. The Regulations will ensure that there are robust training and development frameworks in place for all staff delivering care and support to ensure that there are adequately trained staff working in these environments. They also require that staff sign up to the relevant Code of Practice to ensure that standards are maintained so that, should an incident occur or standards of care and support fall below the expected levels, these workers will be subject to the scrutiny of, and accountable to, the workforce regulator.

The majority of people who responded to our questions on the potential impacts on people sharing protected characteristics either agreed or tended to agree that the proposals could have a positive impact on these groups. Some of the issues that were raised in the consultation reflected the make-up of the social care workforce - some 48% of the commissioned care and support service workforce are aged over fifty and 88% are female – and this brings with it some additional concerns around the cost of registration, computer literacy among older workers, and accessibility of training. These are issues which we will discuss with the workforce regulator, which is responsible for both the registration process and for the qualification routes.

In terms of the Privacy Impact Assessment, the workforce and service regulators, Social Care Wales and Care Inspectorate Wales will be responsible for securing information under the current General Data Protection Regulations (GDPR) requirements and this data would not be shared with third parties. Some data is published on the regulator's website to help the public and potential employers to verify that these workers are registered with the regulators, but this is agreed with the individuals as part of the registration process and only includes specific data not all of the information gathered as part of the registration process.

In terms of the Welsh Language Impact Assessment, the registration of social care workers can be completed bilingually. The registration process will also help the regulator to gather more accurate information on the number of Welsh speakers in the sector and this will help target any proactive recruitment and retention work in future. Registration can also ensure opportunities for workers to access training materials and courses through the medium of Welsh and provide them with greater confidence to do so. This could also increase the number of Welsh language speakers that are confident to deliver services to individuals through the medium of Welsh.

The Economic Impact Assessment tells that that there will be an impact upon businesses providing social care services through these Regulations, as they place a new burden on the workforce to pay a registration fee and will require employers to incur costs for training staff to appropriate qualification levels. However, the workforce regulator, Social Care Wales (SCW), has consulted widely with the

sector when setting the registration fee to identify a proportionate sum that is comparable with those of other regulatory bodies across the UK and implemented a phased increase to the fee to help staff (and employers where this is paid as an incentive to retain staff) to meet these costs. Further impacts on businesses are explored in further detail in the Regulatory Impact Assessment.

Negative impacts

In terms of the short-term negative impacts arising from these Regulations, the key issue is the cost of annual registration fees and additional training needs that may fall upon individuals, care and support service providers and local authorities. We recognise that social care is a low pay sector and even a modest and proportionate fee will have implications for staff and employers. Anecdotal evidence from the sector has raised concerns that this could drive people out of the sector or make it harder for employers to recruit.

The Welsh Government is looking at the levers we have and how these can be employed to help improve the terms and conditions of the workforce. There are also a number of Welsh Government funded programmes – i.e. apprenticeships and the Social Care Wales Workforce Development Programme – that employers can access to help them with training their staff and ensure that they can deliver the high quality services that we all expect. The WeCare.Wales attracting, recruitment and retention campaign currently being run through Social Care Wales is seeking to address the long standing issues around recruitment into social care and Social Care Wales is aiming to ensure a broad representation of workers (in terms of protected characteristics).

3. In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals; and/or,
- avoid, reduce or mitigate any negative impacts?

Social Care Workforce

Our impact assessments suggest that the Regulations around the registration and qualification of the workforce will have a number of positive benefits for businesses, children and young people, and people sharing protected characteristics as well as Welsh language speakers. By seeking to ensure that we have workers who continue to be highly skilled and professional, with clear career pathways and greater job satisfaction, we hope to see an improvement in staff retention which will improve the sustainability of the sector through greater continuity of care and improved business resilience.

The Regulations further the Welsh Government's commitment to raise the profile of our dedicated workforce and the social care sector as a whole.

With greater recognition of the comparable skills between health and social care, we can move forward the "A Healthier Wales" commitment towards greater integration of services, improved training and development and reinforce communication between healthcare and social care staff to build more resilient care and support services for the future.

This would help meet a number of the seven well-being goals (resilience, prosperous, equality and thriving Welsh culture) but more importantly have longer benefits for individuals and businesses.

As recognised by the Welsh Language Impact Assessment, workers will be able to complete the registration bilingually and this process will allow us to gather better data. We will continue to work with Social Care Wales to understand how this data can be used to improve recruitment and retention among this section of the workforce. Alongside the Welsh Government's Cymraeg 2050 strategy to increase the number of Welsh speakers to a million people by 2050, the gathering of more accurate information on the number of Welsh speakers within the workforce can help employers of care and support services to deliver more specific and dedicated services to their customers to help build resilience and sustainability.

In terms of the equality impacts identified, we will raise these with the workforce regulator, Social Care Wales.

4. How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

We will work with the workforce regulator to monitor the implementation of the Regulations including the impacts identified above and will continue to work with the sector to ensure that we provide flexibility and support to them to create a dynamic and sustainable social care sector.