



Llywodraeth Cymru
Welsh Government

Statutory Guidance

Advocacy Services

This statutory guidance relates to Parts 2 to 15 of The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019

April 2019

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

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About this guidance

This is statutory guidance issued by the Welsh Ministers under section 29 of the Regulation and Inspection of Social Care (Wales) Act 2016 ('the Act'). It applies from 29 April 2019.

This guidance sets out:

- how providers of regulated advocacy services may comply with the requirements imposed by regulations made under section 27 of the Act, and
- how persons designated as a responsible individual for a regulated advocacy service may comply with the requirements imposed by regulations made under section 28 of the Act.

These requirements are contained within Parts 2 to 15 of The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019 ('the Regulations'). The Regulations come into force on 29 April 2019 and this guidance will also take effect from that date.

Section 29(3) of the Act states that providers of regulated advocacy services and designated responsible individuals **must have regard to this guidance** in meeting requirements imposed by regulations under sections 27 and 28 of the Act.

This guidance is also relevant to those providers making an application for registration as a service provider under section 6 of the Act. Guidance about registration has been produced by the service regulator, Care Inspectorate Wales ('CIW'), and is available on its website.

How to use this guidance

Prospective service providers and responsible individuals

Persons who wish to provide regulated advocacy must make an application for registration to CIW who carry out the Welsh Ministers' functions as the service regulator. Prospective service providers and responsible individuals must demonstrate that they will be able to meet the requirements imposed by the Act and the Regulations and once registered, that they will continue to meet them.

In order to grant an application to register, CIW must be satisfied that any prospective provider of regulated advocacy services can and will meet the standards of service provision specified in regulations under section 27 of the Act. CIW must also be satisfied that persons designated as a responsible individual can and will comply with the duties set out in regulations under section 28 of the Act.

CIW will use this guidance to inform its decisions to grant or refuse applications for registration as a service provider.

Registered service providers and designated responsible individuals

Registered providers of regulated advocacy services and designated responsible individuals must meet the requirements of the Act and the Regulations. In doing so they **must have regard to this statutory guidance** which is intended to help them understand how they can meet the applicable requirements within the Regulations. CIW will use this guidance to inform decisions about the extent to which registered providers and responsible individuals are meeting those requirements.

Service providers remain responsible for deciding how the requirements will be met, taking into account the needs of individuals using the service and the statement of purpose for the regulated service.

If registered service providers and designated responsible individuals do not follow this guidance, they must be able to show that their chosen approach enables them to meet the applicable requirements within the Regulations.

Structure of this guidance

This guidance sets out the following:

- **A summary of the intention of each Part of the Regulations**

Parts 2 to 10 of the Regulations, made under section 27 of the Act, set out the requirements on a service provider in relation to the standard of service that must be provided. They highlight the importance of the well-being of individuals who are receiving advocacy services¹. They also impose other requirements on service providers related to the operation of the regulated service.

Parts 11 to 15 of the Regulations, made under section 28 of the Act, set out the duties placed on the designated responsible individual in relation to a regulated service. These duties include a requirement to supervise the management of the service including the appointment of a suitable and fit manager. The intention is to ensure that a designated person at an appropriately senior level holds accountability for both service quality and compliance and to ensure that there is a clear chain of accountability linking the corporate responsibility of the service provider and the responsible individual with the role of the manager of the regulated service.

- **The text of each regulation**

It is important that service providers and responsible individuals refer to the text of each regulation as the first source of information about what the requirements are and how to meet them. This guidance provides further explanation on how to meet

¹ These standards are linked to the well-being statement for people who need care and support and carers who need support. <http://gov.wales/docs/dhss/publications/160831well-being-statementen.pdf>

the individual components of each regulation where further clarification and definition may be helpful. Where the text of the regulation itself is self-explanatory, no further guidance is given.

- **Guidance on the requirements of individual components of the regulation**

The guidance on individual components of each regulation should not be considered exhaustive as there may be other ways that service providers and responsible individuals can show that they meet each component of the regulation.

Annex A sets out parts of the Regulations that are not the subject of this guidance, as they are not made under section 27 or 28 of the Act. Annex B contains the Schedules to regulations 24, 31, 32 and 54. These annexes have been included for reference only.

Enforcement

Parts 2 to 15 of the Regulations set out clear requirements which registered providers and responsible individuals must adhere to. CIW, as the service regulator, can take enforcement action against any registered service provider and responsible individual that does not adhere to these legal requirements.

Any enforcement action taken by CIW will be proportionate and will look at the impact on or risk to individuals using the regulated service.

Examples of enforcement action may include:

- imposing conditions on a service provider's registration;
- cancelling a service provider's registration;
- issuing an improvement notice;
- issuing a fixed penalty notice.

Further information on the offences which service providers and responsible individuals may commit if they do not comply with the requirements of the Act and these Regulations, and the different statutory and non-statutory enforcement actions that CIW may take in response, are set out within CIW's Securing Improvement and Enforcement guidance. This is available on CIW's website.

List of key terms used within this guidance

Term	Meaning
The Act	The Regulation and Inspection of Social Care (Wales) Act 2016
The 2014 Act	The Social Services and Well-being (Wales) Act 2014
Advocacy	The assistance given to help a person represent their views
Advocacy plan	The plan required to be prepared in accordance with regulation 12
Care and support plan	A plan put in place by the local authority under section 54 (in relation to adults, children or a carer) or section 83 (in relation to looked after and accommodated children) of the 2014 Act
The individual	Except where the context otherwise requires, a person for whom the service provider is providing, or has provided advocacy, or for whom the service provider may provide advocacy
The individual's needs	The person's advocacy needs
Personal outcomes	The outcome the person wishes to achieve in representing their views
The Regulations	The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019
Representative	Any person having legal authority, or the consent of the individual to act on the individual's behalf
Responsible individual <i>(See section 21 of the Act for a full description)</i>	<p>Must be either:</p> <ul style="list-style-type: none"> • where the service provider is an individual, the service provider; • where the service provider is a partnership, one of the partners; • where the service provider is a body corporate, other than a local authority <ul style="list-style-type: none"> ○ a director or similar officer of the body; ○ in the case of a public limited company, a director or company secretary; ○ in the case of a body corporate whose affairs are managed by its members, a member of the body; • where the service provider is an unincorporated body, a member of the body; • where the service provider is a local authority, an officer of the local authority designated by the authority's director of

	<p>social services;</p> <p>and whom CIW are satisfied is a fit and proper person to be a responsible individual;</p> <p>and is designated by a service provider in respect of a place at, from or in relation to which the provider provides a regulated service;</p> <p>and is specified as such in the service provider's registration</p> <p>NB In certain circumstances (see regulation 59, not covered in this guidance) the responsible individual may be designated by CIW (on behalf of the Welsh Ministers) and not the service provider</p>
SCW	Social Care Wales, the workforce regulator
The Service	The advocacy service as defined in regulation 2 of the Regulations which is provided in relation to a specified area
Service commissioner	The local authority which is responsible for making arrangements with a service provider for the provision of assistance to a child or person under section 178(1) of the 2014 Act
Service provider (or provider)	A person or organisation registered with CIW to provide a regulated service
The service regulator	In practice, the Care Inspectorate Wales (CIW), acting on behalf of the Welsh Ministers in the exercise of their regulatory functions
Staff	<ul style="list-style-type: none"> • Persons employed by the service provider to work at the service as an employee or worker (within the meaning of section 230 of the Employment Rights Act 1996); • Persons engaged by the service provider under a contract for services; • This does not include persons who are allowed to work as volunteers.
Statement of purpose	The statement of purpose for the place at, from or in relation to which the service is provided

Useful links

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

<http://www.legislation.gov.uk/anaw/2016/2/contents/enacted>

The Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019

<http://www.legislation.gov.uk/wsi/2019/165/contents/made>

The Social Services and Well-being (Wales) Act 2014

<http://www.legislation.gov.uk/anaw/2014/4/contents>

Social Services and Well-being (Wales) Act 2014 Part 10 Code of Practice (Advocacy)

<http://gov.wales/docs/dhss/publications/151218part10en.pdf>

Welsh Government: Well-being Statement for People Who Need Care and Support and Carers Who Need Support

<http://gov.wales/docs/dhss/publications/160831well-being-statementen.pdf>

Care Inspectorate Wales

<http://careinspectorate.wales/?lang=en>

Care Inspectorate Wales: Registration guidance (for new services)

<https://careinspectorate.wales/register-provide-service>

Care Inspectorate Wales: Compiling a Statement of Purpose

<https://careinspectorate.wales/providing-a-care-service/already-registered-services/re-registration>

Care Inspectorate Wales: Securing Improvement and Enforcement policy

<https://careinspectorate.wales/providing-a-care-service/how-we-enforce>

Social Care Wales

<https://www.socialcare.wales/>

Social Care Wales: Information and Learning Hub

<https://socialcare.wales/hub/home>

Chapter 1: Requirements on Service Providers (Parts 2 - 10 of the Regulations)

1.1 General requirements on service providers (Part 2)

The intent of the general requirements within Part 2 of the Regulations is to ensure that service providers put in place governance arrangements to support the smooth operation of the service and to ensure that there is a sound base for providing high quality advocacy for individuals using the service. This includes the following:

- Setting clear organisational intent and direction by outlining in the statement of purpose the services provided and the actions the service provider will undertake to ensure these services are delivered to the required standards;
- Putting in place the underpinning policies and procedures to support managers and staff to achieve the aims of the service;
- Establishing sound management structures to oversee and monitor the service in order to ensure that it operates safely and effectively for the individuals receiving advocacy;
- Establishing clear arrangements for an ongoing cycle of quality assurance and review to provide assurance that the service operates in line with legal requirements and its statement of purpose and is supporting individuals appropriately. Information obtained through monitoring is used for continued development and improvement of the service;
- Maintaining oversight of financial arrangements and investment in the service to ensure financial sustainability so that individuals using the service are supported and are protected from the risk of unplanned change in the service provided due to financial pressures; and
- Promoting a culture of openness, honesty and candour at all levels.

Regulation 3	Guidance
<p>Requirements in relation to the provision of the service</p> <p>3. The service provider must ensure that the service is provided with sufficient care, competence and skill, having regard to the statement of purpose.</p>	<ul style="list-style-type: none">• Service providers have clear arrangements for the oversight and governance of the service in order to establish, develop and embed a culture which ensures that the best possible services are provided for individuals and meet the requirements of the Regulations. This includes but is not limited to:<ul style="list-style-type: none">○ policies and procedures to achieve the aims of the

	<p>statement of purpose and to place people at the centre of the service;</p> <ul style="list-style-type: none"> ○ systems for planning, monitoring and review which support evidence-based practice and enable individuals to express their views; ○ processes to ensure advocacy services are delivered consistently and reliably; ○ safe staffing arrangements, underpinned by professional development, to meet the advocacy support needs of individuals; ○ quality and audit systems to review progress and inform the development of the service; ○ a proactive approach to equal opportunities and diversity; and ○ suitable and accessible premises, facilities and equipment.
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Regulation 4	Guidance
<p>Requirements in relation to the statement of purpose</p> <p>4.—(1) The service provider must provide the service in accordance with the statement of purpose.</p> <p>(2) The service provider must—</p> <p>(a) keep the statement of purpose under review, and</p> <p>(b) where appropriate, revise the statement of purpose.</p> <p>(3) Unless paragraph (4) applies, the service provider must notify the persons listed in paragraph (6) of any revision to be made to the statement of purpose at least 28 days before it is to take effect.</p> <p>(4) This paragraph applies in cases where it is necessary to</p>	<ul style="list-style-type: none"> ● The statement of purpose is fundamental to the service. It should: <ul style="list-style-type: none"> ○ accurately describe the services provided; ○ state where and how these services will be provided; and ○ state the arrangements to support the delivery of the services. ● It must include the information set out in The Regulated Services (Registration) (Wales) Regulations 2017². ● In preparing a statement of purpose, the service provider takes into account any statement of purpose guidance

² <http://www.legislation.gov.uk/wsi/2017/1098/contents/made> Amended by The Regulated Services (Annual Returns and Registration) (Wales) (Amendment) Regulations 2019 <http://www.legislation.gov.uk/wsi/2019/233/made>

revise the statement of purpose with immediate effect.

(5) If paragraph (4) applies, the service provider must, without delay, notify the persons listed in paragraph (6) of any revision made to the statement of purpose.

(6) The persons who must be notified of any revision to the statement of purpose in accordance with paragraph (3) or (5) are—

- (a) the service regulator,
- (b) the individuals,
- (c) service commissioners, and
- (d) any representative, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

(7) The service provider must provide the up to date statement of purpose to any person on request, unless it is not appropriate to do so or would be inconsistent with the well-being of an individual.

provided by the service regulator.

- Service providers review and update the statement of purpose at least annually or when changes are being made to the service provided.
- Where there is an intention to change the service being provided, the statement of purpose is updated to reflect the change. The provider notifies those persons set out in regulation 4(6) at least 28 days prior to the changes being made. An example of this includes changes to the normal staffing arrangements or levels as set out in the existing statement of purpose.
- Where there is an intention to change the service being provided with immediate effect, i.e. within the 28 days notification period (required by regulation 4(3)), for example in response to an urgent request, the service provider:
 - notifies the service regulator immediately (and where practicable, prior to implementing the change); and
 - updates the statement of purpose to reflect the change without delay and provides a copy to the service regulator.
- Where a change to the statement of purpose is proposed, the service provider satisfies the service regulator of their ability to provide the services proposed by, for example, providing additional information or receiving a visit from the service regulator to the service (where appropriate).
- Where the statement of purpose is updated a record is kept of the new version and date of amendment.
- A copy of the statement of purpose is readily available to those listed in regulation 4(6).

Regulation 5	Guidance
<p>Requirements in relation to monitoring and improvement</p> <p>5.—(1) The service provider must ensure that there are effective arrangements in place for monitoring, reviewing and improving the quality of the advocacy provided.</p> <p>(2) Those arrangements must include arrangements for seeking views of—</p> <ul style="list-style-type: none"> (a) individuals, (b) any representatives, unless this is not appropriate or would be inconsistent with the individual’s well-being, (c) service commissioners, and (d) staff. <p>on the quality of the advocacy provided by the service and how this can be improved</p> <p>(3) When making any decisions on plans for improvement of the quality of the advocacy, the service provider must—</p> <ul style="list-style-type: none"> (a) take into account the views of those persons consulted in accordance with paragraph (2), and (b) have regard to the quality of service report prepared by the responsible individual in accordance with regulation 50(4). 	<ul style="list-style-type: none"> • Service providers have systems and processes in place to monitor, review and improve the quality of the service. This will include identifying: <ul style="list-style-type: none"> ○ who is responsible for ensuring this is done; ○ how this will be done; ○ how often this takes place; and ○ arrangements for the responsible individual to report to the service provider. • The outcome of any review is analysed and reviewed by people with the appropriate knowledge, skills and competence to understand its significance and take action to secure improvement. Service providers seek professional/expert advice as needed and in a timely manner to help secure improvements. • Service providers can demonstrate how they have: <ul style="list-style-type: none"> ○ analysed and responded to the information gathered; and ○ used the information to make improvements. • Service providers monitor progress against plans to improve the quality of services, and take appropriate action immediately where progress is not achieved as expected. • The systems and processes are continually reviewed to make sure they enable the service provider to identify where the quality of services are being, or may be, compromised and to enable an appropriate timely response.

	<ul style="list-style-type: none"> • As part of the quality review process, service providers: <ul style="list-style-type: none"> ○ encourage feedback; ○ regularly seek the views of the relevant people about the quality of advocacy services; and ○ are able to demonstrate they have done this and provide an analysis of the feedback they have received. • The methods used to engage with and gain the views of those listed in regulation 5(2) using the service are appropriate to their age, level of understanding and take into account any specific condition and/or communication needs. • Information collated through quality and audit systems is used to develop the review of quality of service review report in line with regulation 50(4).
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Regulation 6	Guidance
<p>Requirements in relation to the responsible individual</p> <p>6.—(1) This regulation does not apply to a service provider who is an individual.</p> <p>(2) A service provider to whom this regulation applies must ensure that the person who is designated as the responsible individual—</p> <p style="padding-left: 20px;">(a) is supported to carry out their duties effectively, and</p> <p style="padding-left: 20px;">(b) undertakes appropriate training.</p> <p>(3) In the event that the service provider has reason to believe that the responsible individual has not complied with a requirement imposed by the regulations 36 - 54, the provider</p>	<ul style="list-style-type: none"> • Service providers have systems and processes in place for regular formal discussion with, and support for, the responsible individual. • Service providers support the responsible individual to undertake training which enables them to carry out their role effectively and to meet the aims of the service as outlined in the statement of purpose and in line with practice guidance recommended by SCW. Training for responsible individuals includes that which covers: <ul style="list-style-type: none"> ○ legislative framework and requirements; ○ specific duties of a responsible individual;

<p>must—</p> <ul style="list-style-type: none"> (a) take such action as is necessary to ensure that the requirement is complied with, and (b) notify the service regulator. <p>(4) During any time when the responsible individual is unable to fulfil their duties, the service provider must ensure that there are arrangements in place for—</p> <ul style="list-style-type: none"> (a) the effective management of the service, (b) the effective oversight of the service, (c) the compliance of the service with the requirements of the regulations in Parts 3 to 15, and (d) monitoring, reviewing and improving the quality of the advocacy provided. <p>(5) If the responsible individual is unable to fulfil their duties for a period of more than 28 days, the service provider must—</p> <ul style="list-style-type: none"> (a) notify the service regulator, and (b) inform the service regulator of the interim arrangements made to comply with paragraph (4). 	<ul style="list-style-type: none"> ○ service performance and quality management; and ○ shaping service culture, etc. <ul style="list-style-type: none"> • Where a responsible individual has failed to fulfil their role the service provider notifies the service regulator of any action taken and, where relevant, advises on the arrangements to designate a replacement. • If there is no responsible individual or the responsible individual is unable to fulfil their duties for any reason, for example they are absent from their role due to illness, the service provider ensures that the responsibility for oversight of the management of the service, as set out in Parts 11 to 15 of the Regulations, is still being met under alternative arrangements.
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Regulation 7	Guidance
<p>Requirements in relation to the responsible individual where the service provider is an individual</p> <p>7.—(1) This regulation applies where the service provider is an individual.</p> <p>(2) If this regulation applies, the individual must undertake appropriate training for the proper discharge of the individual’s duties as the responsible individual.</p> <p>(3) During any time when the individual is absent, the individual must ensure that there are arrangements in place for—</p>	<ul style="list-style-type: none"> • The responsible individual undertakes training which enables them to carry out their role effectively and to meet the aims of the service as outlined in the statement of purpose and in line with practice guidance recommended by SCW. Training includes that which covers: <ul style="list-style-type: none"> ○ legislative framework and requirements; ○ specific duties of a responsible individual; ○ service performance and quality management; and ○ shaping service culture, etc. • If the responsible individual is unable to fulfil their duties for

<p>(a) the effective management of the service, (b) the effective oversight of the service, (c) the compliance of the service with the requirements of the regulations in Parts 3 to 15, and (d) monitoring, reviewing and improving the quality of the advocacy provided by the service.</p> <p>(4) If the individual is unable to fulfil their duties as a responsible individual for a period of more than 28 days, the individual must—</p> <p>(a) notify the service regulator, and (b) inform the service regulator of the interim arrangements made to comply with paragraph (3).</p>	<p>any reason, for example they are absent from their role due to illness, the responsible individual ensures alternative arrangements are put in place to ensure the requirements in regulation 7(3) are met.</p>
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Regulation 8	Guidance
<p>Requirements in relation to the financial sustainability of the service</p> <p>8.—(1) The service provider must take reasonable steps to ensure that the service is financially sustainable for the purpose of achieving the aims and objectives set out in the statement of purpose. (2) The service provider must maintain appropriate and up to date accounts for the service. (3) The service provider must provide copies of the accounts to the Welsh Ministers within 28 days of being requested to do so. (4) The Welsh Ministers may require accounts to be certified by an accountant.</p>	<ul style="list-style-type: none"> • Systems are in place to ensure financial planning, budget monitoring and financial control is carried out effectively. • Systems are in place to ensure financial stability and consumer protection in line with any national guidance and financial regulations. • Service providers have the financial resources needed to provide, and continue to provide, the services described in the statement of purpose and in order to meet the requirements of the Regulations. • Service providers have appropriate insurance and suitable indemnity arrangements in place to cover potential liabilities arising from death, injury, or other causes, loss or damage to property, and other financial risks. • Where audited accounts are not available, annual accounts

	<p>are completed by a qualified accountant for the purpose of regulation and inspection.</p> <ul style="list-style-type: none"> • The accounts demonstrate that the service is financially viable and likely to have sufficient funding to continue to fulfil service delivery as set out in its statement of purpose.
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Regulation 9	Guidance
<p>Requirements to provide the service in accordance with policies and procedures</p> <p>9.—(1) The service provider must ensure that the following policies and procedures are in place for the service—</p> <ul style="list-style-type: none"> Commencement of the service (see Part 3, regulation 11) Confidentiality (see Part 6, regulation 19) Safeguarding (see Part 7, regulation 21) Staff support and development (see Part 8 regulation 25) Staff discipline (see Part 8, regulation 28) Complaints (see Part 10, regulation 34) Whistleblowing (see Part 10, regulation 35) <p>(2) The service provider must have such other policies and procedures in place as are reasonably necessary to support the aims and objectives of the service.</p> <p>(3) The service provider must ensure that the content of the policies and procedures which are required to be in place by virtue of paragraphs (1) and (2) is—</p> <ul style="list-style-type: none"> (a) appropriate to the needs of individuals for whom advocacy is provided, 	<ul style="list-style-type: none"> • Service providers have the policies and procedures in place as required by the Regulations • Policies and procedures are proportionate to the service being provided in accordance with the statement of purpose. • Policies and procedures: <ul style="list-style-type: none"> ○ are aligned to any current legislation and national guidance; ○ provide guidance for staff to ensure that services are provided in line with the statement of purpose; and ○ set out requirements to inform individuals and their representatives about how the service is provided. • Policies, procedures and practices are reviewed and updated in light of changes to practice, changing legislation and best practice recommendations. • Staff and individuals using the service have the opportunity to be involved in developing policies and procedures. • Where changes are made to the statement of purpose the policies and procedures are reviewed and updated to reflect the changes.

<p>(b) consistent with the statement of purpose, and (c) kept up to date. (4) The service provider must ensure that the service is provided in accordance with those policies and procedures.</p>	<ul style="list-style-type: none"> • Service providers ensure staff have access to, and knowledge and understanding of, the policies and procedures which support them in their role. • All policies and procedures are available on request to the individuals who use the service, their representatives and, where appropriate, relevant placing authorities and service commissioners. • Policies and procedures are in a format accessible to the individual and support is provided to assist individuals' understanding of these. • Systems for monitoring and improvement include those which ensure the service is being run in accordance with the policies and procedures.
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Regulation 10	Guidance
<p>Duty of candour</p> <p>10.—The service provider must act in an open and transparent way with -</p> <ul style="list-style-type: none"> (a) individuals, (b) any representatives of those individuals. 	<ul style="list-style-type: none"> • Service providers have policies and procedures in place to support a culture of openness and transparency, and ensure that all staff are aware of and follow them. These policies and procedures are in line with, and take account of SCW's guidance on the duty of candour for social care professionals registered with SCW. • Service providers promote a culture of candour that includes: <ul style="list-style-type: none"> ○ being open and, honest when engaging with those listed in regulation 10 when things go wrong; ○ providing individuals and their representatives with information about incidents which happen and the outcome of any investigations that have taken place; and

	<ul style="list-style-type: none">○ offering an apology for what has happened, where it is appropriate to do so.● Service providers take action to prevent and appropriately address bullying, victimisation and/or harassment in relation to the duty of candour, and investigate any instances where a board member, responsible individual or member of staff may have obstructed another in exercising their duty of candour.● Service providers have a system in place to identify and deal with possible breaches of the duty of candour by staff, including the obstruction of another in their duty of candour. Action taken to address such breaches includes, where appropriate, a referral to the professional regulator or other relevant body.● Service providers take action to ensure their duty of candour does not conflict with the individual's right to confidentiality in line with regulation 19.
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1.2 Requirements on service providers as to the steps to be taken before agreeing to provide advocacy

(Part 3)

The intent of the requirements within Part 3 of the Regulations is to provide individuals with assurance that before a service provider offers advocacy they have considered a wide range of information to confirm the service is able to support the individual. This includes the individual's wishes and preferences.

Regulation 11	Guidance
<p>Suitability of the service</p> <p>11.— (1) The service provider must not provide advocacy for an individual unless the service provider has determined that the service is suitable to meet the individual's need for advocacy.</p> <p>(2) The service provider must have in place a policy and procedure on commencement of the service.</p> <p>(3) The determination under paragraph (1) must take into account—</p> <ul style="list-style-type: none"> (a) the individual's views, wishes and feelings, (b) any risks to the individual's well-being, (c) any reasonable adjustments which the service provider could make to enable the individual's advocacy needs to be met, and (d) the service provider's policy and procedures on commencement of the service. <p>(4) In making the determination in paragraph (1), the service provider must involve the individual and any representative. But the service provider is not required to involve a representative if—</p> <ul style="list-style-type: none"> (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be 	<ul style="list-style-type: none"> • Service providers have in place a policy and procedures on commencement of the service. This includes but is not limited to: <ul style="list-style-type: none"> ○ arrangements for confirming that the service can or cannot support the individual to meet their advocacy needs; ○ who will be consulted as part of the process; ○ the information to be considered; ○ the circumstances where a service will not be provided, and; ○ the arrangements for commencing the service. • A summary of the referral procedure is included in the statement of purpose and the service provider's written guide to the service (see regulation 15). • Before agreeing to provide a service the service provider makes an informed decision as to whether or not they can meet an individual's advocacy needs. In making this decision the service provider: <ul style="list-style-type: none"> ○ takes into account the requirements set out within

<p>involved, or</p> <p>(b) involving the representative would not be consistent with the individual's well-being.</p>	<p>regulation 11(3);</p> <ul style="list-style-type: none">○ consults with the individual, and/or their representative to determine what matters to them;○ obtains a copy of the care and support plan where it is relevant and with the individual's consent○ considers any risks to the individual or to others using the service and staff; and○ obtains information relating to the individual's specialist needs and requirements in order to confirm these can be met in line with the statement of purpose. <ul style="list-style-type: none">● Service providers ensure there is relevant information and support for individuals to understand the choices available to them (including provision from alternative service providers, where appropriate), in a format accessible to the individual and suitable to their age and level of understanding.● Information obtained is sufficient to enable smooth transition for the individual to receive the service.● Where the individual lacks the mental capacity to make specific decisions about their advocacy needs and no lawful representative is appointed, their best interests should be established and acted upon in accordance with the Mental Capacity Act 2005.● People making these decisions on behalf of the service provider are competent and have sufficient responsibility and authority (within the organisation) to be able to decide whether the service can meet the individual's need for advocacy.
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1.3 Requirements on service providers as to the steps to be taken on commencement of provision of advocacy (Part 4)

The intent of Part 4 of the Regulations is to ensure that individuals can feel confident that service providers will prepare an advocacy plan to meet the individual’s advocacy needs.

The advocacy plan:

- provides information for individuals and their representatives on the agreed advocacy and the manner in which this will be provided;
- provides a clear and constructive guide for staff about the individual and their advocacy needs;
- provides the basis for ongoing review; and
- enables individuals, their representatives and staff to measure progress and whether an individual’s advocacy needs are being met.

Regulation 12	Guidance
<p>Advocacy plan</p> <p>12.— (1) If the service provider determines that the service is suitable to meet the needs of the individual it must, as soon as reasonably practicable, prepare a plan setting out—</p> <p>(a) the steps which are to be taken to assist the individual to make representations, and</p> <p>(b) any steps to be taken to mitigate identified risks to the individual’s well-being.</p> <p>(2) When preparing the advocacy plan the service provider must involve the individual and any representative unless—</p> <p>(a) the individual is an adult or a child aged 16 or over and the individual does not want the representative to be involved; or</p> <p>(b) involving the representative would not be consistent with the individual’s well-being.</p>	<p>When a decision is made that the service can meet an individual’s advocacy needs an advocacy plan is developed, co-produced with the individual, and any representative.</p> <ul style="list-style-type: none"> • The advocacy plan will set out the actions required to meet the individual’s advocacy needs and how assistance will be provided to assist the individual in making representations about their views and wishes • A copy of the advocacy plan is provided to the individual receiving the service in a language and format appropriate to their needs, age and level of understanding. If there is a reason for not doing so this is documented. • The advocacy plan is accessible and in a clear format to inform staff about how they should provide advocacy to meet the individuals’ advocacy needs.

Regulation 13	Guidance
<p>Review of advocacy plan</p> <p>13.—(1) The advocacy plan must be reviewed as and when agreed between the service provider and the individual. (2) A review of an advocacy plan must include a review of the extent to which the individual has been able to represent the individual’s views or have those views represented. (3) When carrying out a review under this regulation, the service provider must involve the individual and any representative. But the service provider is not required to involve a representative if— (a) the individual is an adult or a child aged 16 or over and the individual does not wish the representative to be involved, or (b) involving the representative would not be consistent with the individual’s well-being. (4) Following the completion of any review required by this regulation, the service provider must consider whether the advocacy plan should be revised and revise the plan as necessary.</p>	<ul style="list-style-type: none"> • The advocacy plan is kept under review and is amended and developed to reflect changes in the individual’s need for advocacy. • The plan is reviewed at intervals agreed with the individual and includes the extent to which they have been able to represent their views wishes and feelings • Reviews are undertaken involving the individual and, where appropriate, and with the agreement of the individual, their representative.
Regulation 14	Guidance
<p>Records of advocacy plans</p> <p>14.— The service provider must— (a) keep a record of— (i) the advocacy plan and any revised plan, and (ii) the outcome of any review, and</p>	<ul style="list-style-type: none"> • A copy of the advocacy plan and any review is provided in a format and language appropriate to the person’s needs. • Individuals and where appropriate, and with the agreement of the individual any representatives, are informed about how they can access the advocacy plan

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| <p>(b) give a copy of the advocacy plan and any revised plan to—</p> <ul style="list-style-type: none">(i) the individual,(ii) any representative, unless this is not appropriate or would be inconsistent with the individual's well-being. | |
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1.4 Requirements on service providers as to the information to be provided to individuals on commencement of provision of advocacy (Part 5)

The intent of Part 5 of the Regulations is to ensure that individuals are provided with information about the service to enable them to have:

- a clear understanding of the culture and ethos of the service;
- an outline of the services they can expect to receive;
- an understanding of the manner in which services will be provided; and
- the terms and conditions of the service.

This should enable individuals, service commissioners and any representatives to have a good understanding of how the service operates in providing advocacy. The written guide also contains the information they need to raise concerns and make complaints to service providers when they are dissatisfied with the service and informs them of how to escalate concerns if they are not satisfied with the response.

Regulation 15	Guidance
<p>Information about the service</p> <p>15.— (1) The service provider must prepare a written guide to the service.</p> <p>(2) The guide must be—</p> <p>(a) dated, reviewed at least annually and updated as necessary;</p> <p>(b) in an appropriate language, style, presentation and format, having regard to the statement of purpose for the service;</p> <p>(c) given to all individuals who are receiving advocacy;</p> <p>(d) given to commissioning authorities; and</p> <p>(e) made available to others on request, unless this is not appropriate or would be inconsistent with the well-being</p>	<ul style="list-style-type: none"> • A written guide is available to those listed in regulation 15(2)(c)-(e), which provides information about the service. • The guide is in plain language and in a format that reflects the needs, age and level of understanding of those for whom the service is intended. The guide is made available in formats and media accessible and appropriate to the audience. For example, preferred and appropriate language, large print, audio, computerised visual aids. When required it is explained in the individual’s preferred method of communication. • Where required individuals are supported to understand the contents of the guide and what it means for them.

of an individual.

(3) The guide must contain information about how to raise a concern or make a complaint.

(4) 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.

• The guide sets out the areas required by regulation 15(3) and in addition includes the following:

- arrangements for welcoming and supporting individuals;
- the ethos, culture and priorities of the regulated service including a summary of the statement of purpose;
- how to access the most recent inspection report completed by the service regulator;
- key staff who will be supporting the individual;
- how to contact the responsible individual;
- the complaints procedure and how to make a complaint;
- contact details and role of the Public Service Ombudsman for Wales, service regulator and Children's Commissioner (as appropriate);
- access to, and support to access, relevant digital communication devices and/or assistive technology
- arrangements for individuals to contribute their views on the running of the service.
- terms and conditions including circumstances in which the service may cease to be provided and notice periods; and
- how individuals can access their own records.

1.5 Requirements on service providers as to the standard of advocacy to be provided (Part 6)

The intent of Part 6 of the Regulations is to ensure that individuals are provided with an advocacy service which enables them to achieve their best possible well-being outcomes. The service is designed in consultation with the individual and considers their personal wishes and aspirations and any risks and specialist needs which inform their need for advocacy.

This includes:

- providing a service that meets individual’s advocacy needs;
- provision of staff with the knowledge, skills and competency to meet individual’s advocacy needs;
- ensuring staff have the appropriate language and communication skills;
- planning and deploying staff to provide continuity of service; and
- consultation with and seeking support from relevant agencies and specialists where required.

Regulation 16	Guidance
<p>Service Standards</p> <p>16.—(1) The service provider must ensure that advocacy is provided in a way which -</p> <p style="padding-left: 20px;">(a) enables individuals to represent their views and to have those views represented: and</p> <p style="padding-left: 20px;">(b) protects, promotes and maintains the safety and well-being of individuals.</p> <p>(2) The service provider must ensure that advocacy is provided to each individual in accordance with the individual’s advocacy plan.</p> <p>(3) The service provider must ensure that the advocacy is provided in way which—</p> <p style="padding-left: 20px;">(a) maintains good personal and professional relationships with individuals and staff; and</p> <p style="padding-left: 20px;">(b) encourages and assists staff to maintain good personal</p>	<ul style="list-style-type: none"> • The service provider’s expectations as to the standards of advocacy to be provided are clearly set out in the statement of purpose. • Enabling individuals to represent their views and to have their views represented is supported by policies and procedures. • Policies and procedures include the provision of advocacy that is in line with any current legislation, national guidance and reflect evidence-based practice. • Service providers ensure advocacy is delivered in a dignified and respectful manner in which staff have meaningful interactions and positive and caring attitudes towards individuals.

<p>and professional relationships with individuals.</p> <p>(4) If, as a result of a change in the individual's circumstances, the service provider is no longer able to meet those needs, even after making any reasonable adjustments, the provider must immediately give written notification of this to the individual, any representative and the service commissioner.</p> <p>(5) The service provider must consider whether an individual has needs for legal or other specialist advice or assistance and take all reasonable steps to obtain that advice or assistance.</p>	<ul style="list-style-type: none"> • Service providers ensure advocacy is provided in keeping with any advocacy plan and supports individuals to express their views and achieve the best possible outcomes. • Advocacy plans should include sufficient detail to inform and enable staff to meet the individual's advocacy need.
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Regulation 17	Guidance
<p>Language and communication</p> <p>17. The service provider must take reasonable steps to meet the language and communication needs of individuals.</p>	<ul style="list-style-type: none"> • Service providers have arrangements in place to assist individuals with their specific communication and language needs in line with the statement of purpose. Where necessary this will include putting measures in place to ensure that individuals can communicate meaningfully. This includes: <ul style="list-style-type: none"> ○ the individual's language of need and choice; and ○ additional means of communication where appropriate. • Service providers identify an individual's communication needs as part of their determination as to whether the service can meet their needs for advocacy. • Individuals can understand staff when they communicate with them. • Service providers ensure that aids and equipment required to support individual's communication needs are in place, accessible, well-maintained and that staff know how to use them.

	<ul style="list-style-type: none"> • Service providers deliver or work towards actively offering a service in the Welsh language to individuals whose first language is Welsh.
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Regulation 18	Guidance
<p>Respect and sensitivity</p> <p>18.— (1)The service provider must ensure that individuals are treated with respect and sensitivity. (2) This includes, but is not limited to—</p> <ul style="list-style-type: none"> (a) respecting the individual’s privacy and dignity; (b) promoting the individual’s autonomy and independence; (c) having regard to any relevant protected characteristics (as defined in section 4 of the Equality Act 2010(3)) of the individual 	<ul style="list-style-type: none"> • Service providers ensure individuals are aware of their rights and entitlements under the law, and under equality and diversity policies held by the service provider. • Service providers ensure that individuals are: <ul style="list-style-type: none"> ○ listened to, and communicated with, in a courteous and respectful manner with their advocacy needs being the main focus of staff’s attention; and ○ treated with respect and feel valued. • Service providers ensure individuals do not suffer discrimination within their service. • Individuals are encouraged to contribute their views, if they choose to, on the way in which the service is run.

Regulation 19	Guidance
<p>Confidentiality</p> <p>19.— (1) The service provider must respect the individual’s rights to confidentiality. (2) The service provider must have in place a policy about the right of individuals to confidentiality, which also includes the circumstances when an individual’s right to confidentiality may be over-ridden, and must operate the service in accordance with the policy</p>	<ul style="list-style-type: none"> • Service providers have in place a policy about maintaining the confidentiality of individuals. This includes, but is not limited to: <ul style="list-style-type: none"> ○ The service provider’s approach to confidentiality; ○ The circumstances when a service provider may breach confidentiality; and ○ Roles and responsibilities of staff and others working at the service • Policies and procedures are aligned to current legislation and national guidance.

1.6 Requirements on service providers – Safeguarding (Part 7)

The intent of Part 7 of the Regulations is to ensure that service providers have in place the mechanisms to safeguard individuals to whom they provide advocacy.

This includes arrangements that:

- support individuals using the service;
- support and underpin staff knowledge, understanding and skill in identifying risks and action to take where abuse, neglect or improper treatment is suspected or identified; and
- ensure providers work collaboratively with relevant partners to prevent and take action where abuse, neglect or improper treatment is suspected or identified.

Regulation 20	Guidance
<p>Safeguarding - overarching requirement</p> <p>20. The service provider must provide the service in a way which ensures that individuals are safe and are protected from abuse, neglect and improper treatment.</p>	<ul style="list-style-type: none"> • When they begin using the service, individuals and their representatives are given information about safeguarding, how to raise a concern and what support is available to enable them to do so. • Staff can access up-to-date safeguarding policies and procedures. • Staff receive training relevant to their role at induction to enable them to understand their responsibility to safeguard and protect individuals at risk. This includes both internal and local safeguarding arrangements including how to raise a concern (whistleblowing). • Staff training is ongoing at regular intervals in line with local safeguarding recommendations. • Staff are aware of their individual responsibilities for raising

	<p>concerns to ensure the safety and well-being of individuals.</p> <ul style="list-style-type: none">• Service providers make provision to support staff raising safeguarding concerns (whistleblowing).• Service providers work in partnership with other relevant professionals and agencies to assess and manage risk to individuals using the service and to participate in the safeguarding process.• Records of safeguarding referrals and outcomes are maintained to enable oversight and scrutiny of safeguarding within the service. Protection of adults at risk/children must be overseen by the manager and responsible individual and within the governance structure with arrangements made for oversight at board level.• Service providers ensure outcomes arising from any safeguarding referral are communicated to the individual in a method appropriate to their age and level of understanding taking into account their any specific condition and/or communication needs. This is also communicated to any representatives (if appropriate).
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Regulation 21	Guidance
<p>Safeguarding policies and procedures</p> <p>21.— (1) The service provider must have policies and procedures in place for —</p> <p style="padding-left: 20px;">(a) the prevention of abuse, neglect and improper treatment, and</p> <p style="padding-left: 20px;">(b) responding to any allegation or evidence of abuse, neglect or improper treatment.</p> <p>(2) In this regulation, such policies and procedures are referred to as safeguarding policies and procedures.</p> <p>(3) The service provider must ensure that its safeguarding policies and procedures are operated effectively.</p> <p>(4) In particular, where there is an allegation or evidence of abuse, neglect or improper treatment, the service provider must—</p> <p style="padding-left: 20px;">(a) act in accordance with its safeguarding policies and procedures;</p> <p style="padding-left: 20px;">(b) take immediate action to ensure the safety of all individuals for whom advocacy services are provided;</p> <p style="padding-left: 20px;">(c) make appropriate referrals to other agencies; and</p> <p style="padding-left: 20px;">(d) keep a record of any evidence or the substance of any allegation, any action taken and any referrals made.</p>	<ul style="list-style-type: none"> • There is an up-to-date safeguarding policy and procedures in place. • Safeguarding policies and procedures are aligned to current legislation, national guidance and local adult and children’s safeguarding procedures. • The safeguarding policy and procedures include the individual roles and responsibilities of staff and others working at the service in identifying, receiving and reporting allegations of abuse, neglect or improper treatment or suspected abuse, neglect or improper treatment. This will include instruction for staff on actions to be taken and mechanisms for referral to the local authority and other relevant partners and agencies.

Regulation 22

Interpretation of Part 7

22. In this Part—

“abuse” (“*camdriniaeth*”) means physical, sexual, psychological, emotional or financial abuse and, in relation to a child, any other harm and for the purposes of this definition—

(a) “financial abuse” includes—

- (i) having money or other property stolen;
- (ii) being defrauded;
- (iii) being put under pressure in relation to money or other property;
- (iv) having money or other property misused;

(b) “harm” has the same meaning as in section 197(1) of the 2014 Act;

“improper treatment” (“*triniaeth amhriodol*”) includes discrimination or unlawful restraint, including inappropriate deprivation of liberty under the terms of the Mental Capacity Act 2005⁽⁴⁾;

“neglect” (“*esgeulustod*”) has the same meaning as in section 197(1) of the 2014 Act.

⁽⁴⁾ 2005 c. 9.

1.7 Requirements on service providers as to staffing (Part 8)

The intent of Part 8 of these Regulations is to ensure that individuals are supported by appropriate numbers of staff who have the required knowledge, competence, skills and qualifications to provide the service in a way which meets the individual's advocacy needs.

Service providers have in place:

- underpinning policies and procedures for recruitment;
- rigorous practices for recruiting and vetting staff;
- a structure of management and staffing that supports the statement of purpose and is relevant to individuals' needs; and
- a management structure, systems and processes for induction, ongoing supervision, training and development of staff.

Regulation 23	Guidance
<p>Staffing - overarching requirements</p> <p>23. The service provider must ensure that at all times a sufficient number of suitably qualified, trained, skilled, competent and experienced staff are deployed to work at the service, having regard to the statement of purpose for the service.</p>	<ul style="list-style-type: none"> • Service providers have a demonstrable, measurable and systematic approach to determining the number of staff and range of skills/qualifications required for the reliable provision of the service and to support individual's to achieve their advocacy needs. This considers, but is not limited to: <ul style="list-style-type: none"> ○ the statement of purpose; and ○ the different levels of knowledge, skills and competence required to meet the specific needs of individuals on a collective and individual basis. • Staffing levels and skill mix are reviewed continuously and adapted to respond to the changing needs of the service. • Arrangements are in place to cover staff sickness or absence to ensure individuals' advocacy needs are met.

Regulation 24	Guidance
<p>Fitness of staff</p> <p>24.— (1) The service provider must not—</p> <ul style="list-style-type: none"> (a) employ a person under a contract of employment to work at the service unless that person is fit to do so; (b) allow a volunteer to work at the service unless that person is fit to do so; (c) allow any other person to work at the service in a position in which, in the course of duties, that person may, in the course of carrying out duties, have regular contact with individuals or with other persons who are vulnerable unless that person is fit to do so. <p>(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—</p> <ul style="list-style-type: none"> (a) the person is of suitable integrity and good character; (b) the person has the qualifications, skills, competence and experience necessary for the work that person is to perform; (c) the person is able by reason of their health, after reasonable adjustments are made, of properly performing the tasks which are intrinsic to the work for which that person is employed or engaged; (d) the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters specified in Part 1 of Schedule 1 and this information or documentation is available at the service for inspection by the service regulator; (e) where the person is employed by the service provider to manage the service after 1 September 2022, the 	<ul style="list-style-type: none"> • Service providers have rigorous selection and vetting systems in place to enable them to make a decision on the appointment or rejection of all staff and volunteer applicants. This includes the information set out in Schedule 1 of the Regulations. This also includes checking the veracity of references and employment. • Where agency staff are deployed service providers ensure that they are subject to the same checks as permanently employed staff and have evidence to demonstrate that the checks have been undertaken. This may include confirmation and checklists supplied by any agency, where sufficiently reliable and robust. • Service providers have a process in place to check that staff have appropriate and current registration with a professional regulator where required or, where applicable, an accredited voluntary register. • Having considered all the information available service providers will determine whether the person has the necessary skills, qualifications and good character to undertake the role for which they are employed/deployed. • Where staff (including volunteers) no longer meet the required fitness criteria set out in regulation 24(2), service providers take appropriate and timely action to ensure that individuals are not placed at risk. For example this may include:

person is registered as a social care manager with SCW (5)

(3) An appropriate DBS must be applied for by, or on behalf of the service provider, for the purpose of assessing the suitability of a person for the post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as “the DBS update service”).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the service provider must check the person’s DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the service provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in accordance with paragraph (3) and thereafter further such applications must be made at least every three years.

(7) If any person working at the service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the service provider must—

- (a) take necessary and proportionate action to ensure that the relevant requirements are complied with;
- (b) where appropriate, inform—
 - (i) the relevant regulatory or professional body;
 - (ii) the Disclosure and Barring Service.

- coaching and mentoring;
- providing additional training and supervision; and
- the use of disciplinary procedures.

- Service providers ensure staff comply with the requirements of their professional codes of practice and, where appropriate, providers make referrals to the relevant professional bodies for staff whose fitness to practise is brought into question.
- Where there are concerns that a member of staff has abused an individual or placed an individual at risk of abuse, the Disclosure and Barring Service and any relevant professional registration body are notified by the service provider without delay.

5 See section 67(3) of the Act for the definition of Social Care Wales as “SCW”.

Regulation 25	Guidance
<p>Supporting and developing staff</p> <p>25.— (1) The service provider must have a policy in place for the support and development of staff. (2) The service provider must ensure that any person working at the service (including a person allowed to work as a volunteer)—</p> <ul style="list-style-type: none"> (a) receives an induction appropriate to their role; (b) is made aware of their own responsibilities and those of other staff. (c) receives appropriate supervision and appraisal; (d) receives core training appropriate to the work to be performed by them; (e) receives specialist training as appropriate; (f) receives support and assistance to obtain such further training as is appropriate to the work they perform. <p>(3) The service provider must ensure that any person employed to work at the service is supported to maintain their registration with the appropriate regulatory or occupational body.</p>	<ul style="list-style-type: none"> • Service providers ensure they have an induction programme that equips all new staff (including volunteers) to be confident in their roles and practice and enables them to make a positive contribution to the well-being of individuals using the service. • Where required service managers complete the relevant induction programme required by SCW within the defined timescales alongside any service-specific induction programmes. • Where agency staff are deployed an introduction to the service is provided which includes, but is not limited to: <ul style="list-style-type: none"> ○ the statement of purpose; ○ core policies and procedures; and ○ management and supervision arrangements. • Staff receive supervision in their role to help them reflect on their practice and to make sure their professional competence is maintained. This includes feedback about their performance from individuals using the service. • Staff meet for one to one supervision with their line manager or equivalent officer, or a more senior member of staff, no less than quarterly. • All staff have an annual appraisal which provides feedback on their performance and identifies areas for training and development in order to support them in their role. • Additional training, learning and development needs of

	<p>individual staff members are identified within the first month of employment and reviewed through the supervision and appraisal process.</p> <ul style="list-style-type: none">• Staff are supported to undertake training, learning and development to enable them to fulfil the requirements of their role and meet the needs of individuals using the service.• Service providers undertake an annual (or more frequently if required) training needs analysis to ensure that staff have the relevant skills and competence to meet the needs of individuals in accordance with the statement of purpose for the service.• Service providers maintain a written record of all training and supervision undertaken or to be undertaken by staff.• Service providers support all staff to complete, where appropriate:<ul style="list-style-type: none">○ core training;○ necessary qualifications that would enable them to continue to perform their role;○ training and activities required for continuing professional development;○ other training deemed appropriate by the service provider; and○ any core and specialist training identified by SCW as consistent with their role.
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Regulation 26	Guidance
<p>Compliance with employer’s code of practice</p> <p>26. The service provider must adhere to the code of practice on the standards of conduct and practice expected of persons employing or seeking to employ social care workers, which is required to be published by SCW under section 112(1)(b) of the Act.</p>	<ul style="list-style-type: none"> • Service providers have a clear understanding of their role and responsibilities in relation to the Code of Practice for Employers of Social Care Staff (SCW publication) and/or other codes of practice applicable to employers which may be issued by SCW from time to time.
Regulation 27	Guidance
<p>Information for staff</p> <p>27.— (1) The service provider must ensure that all persons working at the service (including any person allowed to work as a volunteer) are provided with information about the service and the way it is provided.</p> <p>(2) The service provider must ensure that there are arrangements in place to make staff aware of any codes of practice about the standards of conduct expected of social care workers, which is required to be published by SCW under section 112(1)(a) of the Act.</p>	<ul style="list-style-type: none"> • Service providers compile and make available information for staff in line with the statement of purpose. This includes information about the following matters: <ul style="list-style-type: none"> ○ the ethos and culture of the service; ○ the conduct expected of staff and others working at the service; ○ the roles and responsibilities of staff and others working at the service; ○ the policies and procedures of the service; ○ record keeping requirements; ○ confidentiality and data protection requirements; ○ disciplinary procedures; ○ arrangements for reporting concerns; and ○ arrangements for lone working. • Service providers ensure staff have access to and understand up-to-date copies of all relevant policies, procedures and codes of practice. Service providers ensure staff have read these during the induction period and test staff members’ ongoing understanding through supervision and performance reviews.

	<ul style="list-style-type: none"> • Service providers ensure that staff undertake their duties in line with the requirements of the policies and procedures. • All staff are provided with a written job description which states clearly their responsibilities, the duties currently expected of them and their line of accountability.
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Regulation 28	Guidance
<p>Disciplinary procedures</p> <p>28.— (1) The service provider must put in place and operate a disciplinary procedure.</p> <p>(2) The disciplinary procedure must include—</p> <p>(a) provision for the suspension, and the taking of action short of suspension, of an employee, in the interests of the safety or well-being of individuals;</p> <p>(b) provision that a failure on the part of an employee to report an incident of abuse, or suspected abuse, to an appropriate person, is grounds on which disciplinary proceedings may be instituted.</p> <p>(3) For the purpose of paragraph (2)(b), an appropriate person is-</p> <p>(a) the service provider,</p> <p>(b) the responsible individual,</p> <p>(c) an officer of the service regulator,</p> <p>(d) an officer of the local authority for the area in which the service is provided,</p> <p>(e) in the case of an incident of abuse or suspected abuse of a child, an officer of the National Society for the Prevention of Cruelty to Children, or</p> <p>(f) a police officer.</p>	<ul style="list-style-type: none"> • Service providers have a disciplinary procedure, in line with employment laws, to deal with employee performance and conduct. This includes – <ul style="list-style-type: none"> ○ information about what is acceptable and unacceptable behaviour and what action will be taken if there are concerns about staff behaviour; and ○ the arrangements for a member of staff to be suspended (or transferred to other duties) pending the investigation of any allegations of serious misconduct, including allegations of abuse or serious concerns relating to the safety of well-being of individuals. • Where the service provider is undertaking disciplinary action against any employee and the employee leaves prior to the completion of the disciplinary process consideration is given to whether a referral to the police, Disclosure and Barring Service, SCW or any other professional body is appropriate. • Where a volunteer’s fitness to practise is in question, due to any alleged misconduct/lack of capability of a concerning nature, the service provider takes appropriate and timely action. For example this may include:

	<ul style="list-style-type: none">○ providing additional training and supervision;○ termination of the volunteer arrangements; and○ referral to the Disclosure and Barring service or police, where appropriate. <ul style="list-style-type: none">● Service providers ensure staff are aware of and understand the relevant disciplinary procedures and grievance procedures.
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1.8 Requirements on service providers as to premises (Part 9)

The intent of Part 9 of the Regulations is to set out the requirements for service providers to ensure that advocacy services are provided in a location and environment with facilities suitable for the operation of the service.

This includes:

- ensuring that systems and processes are in place which promote a safe and high quality environment in which the services are provided; and
- arrangements to ensure that the physical environment provides individual and communal space to meet their advocacy needs.

Regulations 29	Guidance
<p>Overarching requirement</p> <p>29. The service provider must ensure that the premises, facilities and equipment are suitable for the service, having regard to the statement of purpose for the service</p>	<ul style="list-style-type: none"> • The location, design and size of the premises are suitable for the service as described in the statement of purpose.
Regulation 30	Guidance
<p>Premises</p> <p>30. The service provider must ensure that the premises used for the operation of the service have adequate facilities for the secure storage of records.</p>	<ul style="list-style-type: none"> • Records are stored securely in line with legislative requirements.

1.9 Other requirements on service providers (Part 10)

The intent of Part 10 of the Regulations is to ensure that individuals are protected by a service that works proactively to secure their advocacy and protect their rights by:

- maintaining accurate records which are available to them and their representatives;
- promoting an open and transparent service by publishing an accessible complaints policy and procedure;
- supporting staff to raise concerns about the service through whistleblowing procedures; and
- demonstrating learning from concerns and complaints to improve the service.

Regulation 31	Guidance
<p>Records</p> <p>31.— (1) The service provider must keep and maintain the records specified in Schedule 2 in respect of each place at, from or in relation to which the service is provided.</p> <p>(2) The service provider must—</p> <ul style="list-style-type: none"> (a) ensure that records relating to individuals are accurate and up to date; (b) keep all records securely; (c) make arrangements for the records to continue to be kept securely in the event the service closes; (d) make the records available to the service regulator on request; (e) retain records relating to adults for three years from the date of the last entry; (f) retain records relating to children for fifteen years from the date of the last entry; (g) ensure that individuals who use the service— <ul style="list-style-type: none"> (i) can have access to their records; and (ii) are made aware they can access their records. 	<ul style="list-style-type: none"> • There is a policy and procedures for the recording and management of records. • Staff are aware of the policy and have a clear understanding of the procedures for managing records. This includes training in information security and action to be taken where personal information is compromised. • Service providers keep detailed case records of work undertaken which includes the advocacy plan, activity, issues, outcomes and feedback which the children and young people agree with and are able to access • Service providers maintain all the records required for the protection of individuals and the efficient running of the service as specified by Schedule 2 of the Regulations. • All records are secure, up to date and in good order. They are prepared, maintained and used in accordance with data protection legislation and other statutory requirements.

	<ul style="list-style-type: none"> • Records are stored securely including electronic records which are password protected. • Individuals and where appropriate, and with the agreement of the individual, their representatives, and staff are given access to any records and information about them held by service providers in accordance with current legal requirements.
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Regulation 32	Guidance
<p>Notifications</p> <p>32.— (1) The service provider must notify the service regulator of the events specified in Schedule 3. (2) The notifications required by paragraph (1) must include details of the event. (3) Unless otherwise stated, notifications must be made without delay and in writing. (4) Notifications must be made in such manner and in such form as may be required by the service regulator.</p>	<ul style="list-style-type: none"> • Service providers have appropriate arrangements in place for the notification of the events listed Schedule 3 of the Regulations to be made to the relevant authority. • Notifications are made without delay, usually within 24 hours of the event occurring.

Regulation 33	Guidance
<p>Conflicts of interest</p> <p>33. The service provider must have effective arrangements in place to identify, record and manage conflicts of interest.</p>	<ul style="list-style-type: none"> • Service providers maintain appropriate systems and take all reasonable steps to make sure actual or perceived conflicts of interests are identified, prevented and recorded in an open way.

Regulation 34	Guidance
<p>Complaints policy and procedure</p> <p>34.— (1) The service provider must have a complaints policy in place and ensure that the service is operated in accordance with that policy.</p> <p>(2) The service provider must have effective arrangements in place for dealing with complaints including arrangements for—</p> <ul style="list-style-type: none"> (a) identifying and investigating complaints; (b) giving an appropriate response to a person who makes a complaint, if it is reasonably practicable to contact that person; (c) ensuring that appropriate action is taken following an investigation; (d) keeping records relating to the matters in sub-paragraphs (a) to (c). <p>(3) The service provider must provide a summary of complaints, responses and subsequent action to the service regulator within 28 days of being requested to do so.</p> <p>(4) The service provider must—</p> <ul style="list-style-type: none"> (a) analyse information relating to complaints and concerns; and (b) having regard to that analysis, identify any areas for improvement. 	<ul style="list-style-type: none"> • There is a complaints policy in place. This includes the details of procedures as set out in regulation 34. • Service providers have an accessible complaints policy which includes, where appropriate, the use of an informal resolution stage and explains: <ul style="list-style-type: none"> ○ who can make a complaint and in relation to what; ○ who to approach to discuss a concern/complaint; ○ how individuals can be supported to make a complaint; ○ how complaints will be dealt with; and ○ the stages and timescales for the process. • The policy and procedures are in an easy to read format, well publicised, readily available and accessible to individuals using the service. • Information about other avenues for complaint is included to support complainants if they are not satisfied with the service provider’s action. For example, information about the complaints procedure of the service commissioner, the Public Services Ombudsman for Wales and the Children’s Commissioner for Wales. • Individuals are able to make their complaint in writing or verbally to staff and these should be acknowledged unless complaints are made anonymously. • Staff are aware of the complaints policy and understand how to respond appropriately to complaints. • Providers ensure any complaint is acknowledged, addressed promptly and the complainant is kept informed of progress, unless the complaints are made anonymously.

	<ul style="list-style-type: none">• A written report is provided to the complainant setting out the outcome of the complaint and any action to be taken.• Wherever practicable consent should be gained to the disclosure of the details of a complaint, where necessary, to enable an effective investigation to take place• Confidentiality is maintained during the complaints process unless there are professional or statutory obligations which would not make this possible, such as those in relation to safeguarding.• Individuals do not suffer , victimisation or any other disadvantage, or the withdrawal or reduction of a service as a result of making representations or complaints.• Systems are in place to make sure that all complaints are investigated in accordance with the timescales set out in the service provider’s complaints policy. This includes:<ul style="list-style-type: none">○ undertaking a review to establish the level of investigation and immediate action required, including whether there is a requirement for a referral to appropriate authorities for investigation. This may include the service regulator or local authority safeguarding teams; and○ where areas for improvement or service failures are identified, acting upon these immediately.• Staff and others involved in the investigation of complaints have the right level of knowledge and skill to do this. They understand the service provider's complaints process and are knowledgeable about any current related guidance.
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	<ul style="list-style-type: none"> • Records of complaints are maintained and monitored to identify trends and areas of risk which may require pre-emptive action. • Actions taken in response to complaints are reported on as part of the governance arrangements for the service
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Regulation 35	Guidance
<p>Whistleblowing</p> <p>35.— (1) The service provider must have arrangements in place to ensure that all persons working at the service (including any person allowed to work as a volunteer) are able to raise concerns about matters that may adversely affect the health, safety or well-being of individuals for whom the service is provided.</p> <p>(2) These arrangements must include—</p> <ul style="list-style-type: none"> (a) having a whistleblowing policy in place and acting in accordance with that policy, and (b) establishing arrangements to enable and support people working at the service to raise such concerns. <p>(3) The provider must ensure that the arrangements required under this regulation are operated effectively.</p> <p>(4) When a concern is raised, the service provider must ensure that—</p> <ul style="list-style-type: none"> (a) the concern is investigated; (b) appropriate steps are taken following an investigation; (c) a record is kept of both the above. 	<ul style="list-style-type: none"> • There is an accessible whistleblowing policy and procedure in place. This includes: <ul style="list-style-type: none"> ○ the procedure for raising a concern; ○ the safeguards in place for staff who raise a concern; and ○ how concerns will be investigated. • Staff are aware of, and have had training in, how to raise concerns and there are mechanisms and support available to enable them to do this. • Wherever practicable consent should be gained to the disclosure of the details of a concern, where necessary, to enable an effective investigation to take place . • Confidentiality is maintained during the investigation process unless there are professional or statutory obligations which would not make this possible, such as those in relation to safeguarding. • Individuals do not suffer victimisation or any other disadvantage as a result of making their concerns known. • All allegations and incidents of abuse are followed up

	<p>promptly in line with the service provider's safeguarding policy and procedures and local safeguarding arrangements.</p> <ul style="list-style-type: none">• Systems are in place to make sure that all concerns are considered without delay in line with the service provider's safeguarding policy and procedures. This includes:<ul style="list-style-type: none">○ undertaking a review to establish the level of investigation and immediate action required, including referral to appropriate authorities for investigation. (this may include seeking advice from the service regulator or local authority safeguarding staff);○ where areas for improvement or service failures are identified, acting upon these without delay; and○ ensuring staff and others involved in the investigation understand the processes relating to safeguarding and responding to concerns.• Records of concerns are maintained and monitored to identify trends and areas of risk which may require pre-emptive action. Actions taken as a response to whistleblowing
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Chapter 2: Requirements on Responsible Individuals for ensuring effective management of the service (Parts 11 to 15 of the Regulations)

The intent of Parts 11 to 15 of the Regulations is to ensure that a designated person at an appropriately senior level holds accountability, for both service quality and compliance. The Regulations place specific requirements upon the responsible individual (RI) and will enable the service regulator to take action not only against the service provider but also against the RI in the event that regulatory requirements are breached. The regulations in these Parts are made under section 28 of the Act.

The responsible individual is responsible for **overseeing** the management of the service and for providing assurance that the service is safe, well run and complies with the Regulations. The responsible individual is responsible for ensuring the service has a manager, sufficient resources and support. The responsible individual is not responsible for the day to day management of the service (unless they are also the manager); this rests with the manager.

2.1 Requirements on responsible individuals for ensuring effective management of the service (Part 11)

Regulation 36	Guidance
<p>Supervision of management of the service</p> <p>36. The responsible individual must supervise the management of the service, which includes the specific requirements set out in this Part.</p>	<ul style="list-style-type: none"> • The responsible individual follows the service provider’s prescribed systems and processes to enable proper oversight of the management, quality, safety and effectiveness of the service. This includes, but is not limited to, ensuring the service: <ul style="list-style-type: none"> ○ focuses on individuals’ advocacy needs; ○ listens to individuals; ○ responds positively to any concerns or complaints; ○ does not place individuals at unnecessary risk; ○ achieves best possible outcomes for individuals; ○ fulfils the statement of purpose; ○ has sufficient numbers of staff who are trained, competent and skilled to undertake their role; and ○ has sufficient resources, facilities and equipment.

	<ul style="list-style-type: none"> • The responsible individual has systems in place to review and assess the way in which the manager implements actions from the findings of internal quality assurance and external inspection reports, within required timescales. • There are clear lines of accountability, delegation and responsibility set out in writing between the responsible individual and the manager (unless the manager is also the responsible individual). • Arrangements are in place for the manager to have direct access to the responsible individual in addition to the opportunity to meet formally as part of the responsible individual's quality reviews (unless the manager is also the responsible individual). • Arrangements are in place to ensure that the manager is supported by supervision and training, and has opportunities to gain skills for professional development that will support them in their role.
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Regulation 37	Guidance
<p>Duty to appoint a manager</p> <p>37.—(1)The responsible individual must appoint a person to manage the service. But this requirement does not apply if the conditions in paragraphs (2) or (3) apply.</p> <p>(2) The conditions are—</p> <p>(a) the service provider is an individual;</p>	<ul style="list-style-type: none"> • The responsible individual ensures a manager who is registered with SCW (subject to regulation 37(6)) is appointed and in place to manage the delivery of the service on a day to day basis for each place at, from, or in relation to which services are provided. • The responsible individual takes responsibility and accountability for the appointment of the manager regardless

<p>(b) the service provider proposes to manage the service;</p> <p>(c) the service provider is fit to manage the service;</p> <p>(d) subject to paragraph (6), the service provider is registered as a social care manager with SCW; and</p> <p>(e) the service regulator agrees to the service provider managing the service.</p> <p>(3) The conditions are—</p> <p>(a) the service provider is a partnership, body corporate or unincorporated body;</p> <p>(b) the service provider proposes that the individual designated as the responsible individual for the service is to be appointed to manage the service;</p> <p>(c) that individual is fit to manage the service;</p> <p>(d) subject to paragraph (6), that individual is registered as a social care manager with SCW; and</p> <p>(e) the service regulator agrees to that individual managing the service.</p> <p>(4) For the purposes of paragraph (2) (c), the service provider is not fit to manage the service unless the requirements of regulation 24(2) (fitness of staff) are met in respect of the service provider.</p> <p>(5) The duty in paragraph (1) is not discharged if the person appointed to manage the service is absent for a period of more than three months.</p> <p>(6) The condition in paragraphs (2)(d) and (3) (d) only applies after 1 September 2022</p>	<p>of whether they are directly involved in the recruitment process.</p> <ul style="list-style-type: none"> • The responsible individual is assured that the person appointed as the manager for the service has the appropriate knowledge, skills and competence to manage the service safely and in accordance with the requirements of the Regulations. • The responsible individual demonstrates that the appointment of the manager has been undertaken with due diligence and in line with the requirements of regulation 24 (fitness of staff). • Where a manager is absent for a period more than three months, the service provider ensures there is an appropriately qualified, experienced and competent manager, registered with SCW (subject to regulation 37(6)), in place to manage the service.
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Regulation 38	Guidance
<p>Fitness requirements for appointment of manager</p> <p>38.— (1) The responsible individual must not appoint a person to manage the service unless that person is fit to do so. (2) For the purposes of paragraph (1), a person is not fit to manage the service unless the requirements of regulation 24(2) (fitness of staff) are met in respect of that person.</p>	<ul style="list-style-type: none"> • The responsible individual has suitable arrangements in place to ensure the manager is fit and is capable of running the service in line with its statement of purpose. This includes ensuring: <ul style="list-style-type: none"> ○ the manager is appropriately qualified; ○ the manager is registered with SCW (subject to regulation 37(6)); ○ the manager is experienced in managing advocacy; services and in the provision of the type of advocacy being provided; and ○ the vetting of prospective managers includes the relevant checks required by regulations to assure the responsible individual that the person is fit and able to work with vulnerable individuals.
Regulation 39	Guidance
<p>Restrictions on appointing manager for more than one service</p> <p>39.— (1) The responsible individual must not appoint a person to manage more than one service, unless paragraph (2) applies. (2) This paragraph applies if—</p> <ul style="list-style-type: none"> (a) the service provider has applied to the service regulator for permission to appoint a manager for more than one service, and (b) the service regulator is satisfied that the proposed management arrangements— <ul style="list-style-type: none"> (i) will not have an adverse impact on the service provider’s ability to meet the requirements of regulation 16(1); and (ii) will provide reliable and effective oversight of each service. 	<ul style="list-style-type: none"> • Where a manager is appointed to manage more than one service, this is agreed in advance with the service regulator.

Regulation 40	Guidance
<p>Duty to report the appointment of manager to service provider</p> <p>40. On the appointment of a manager in accordance with regulation 37(1), the responsible individual must give notice to the service provider of—</p> <ul style="list-style-type: none"> (a) the name of the person appointed, and (b) the date on which the appointment is to take effect. 	<ul style="list-style-type: none"> • The responsible individual has suitable arrangements in place to: <ul style="list-style-type: none"> ○ inform the service provider of the details of the appointment of the manager; ○ provide the information specified by the Regulations concerning the individual; and ○ notify the service regulator and SCW when a new manager is appointed.

Regulation 41
<p>Duty to report appointment of manager to SCW and the Welsh Ministers</p> <p>41.— (1) On the appointment of a manager in accordance with regulation 37(1), the responsible individual must give notice to SCW and to the service regulator of—</p> <ul style="list-style-type: none"> (a) the name, date of birth and SCW registration number of the person appointed, and (b) the date on which the appointment is to take effect. <p>(2) In a case where the service provider is an individual and the service regulator has agreed to the service provider managing the service, the service provider must give notice to SCW of—</p> <ul style="list-style-type: none"> (a) the name, date of birth and SCW registration number of the service provider, and (b) the date from which the service provider is to manage the service.

Regulation 42	Guidance
<p>Arrangements when manager is absent</p> <p>42.— (1) The responsible individual must put suitable arrangements in place to ensure that the service is managed effectively at any time when there is no manager or when the manager is not present at the service.</p> <p>(2) If there is no manager or the manager is not present at the service for a period of more than 28 days, the responsible individual must—</p> <ul style="list-style-type: none"> (a) notify the service provider and the service regulator; and (b) inform them of the arrangements which have been put in place for the effective management of the service. 	<ul style="list-style-type: none"> • The responsible individual has structures in place which ensure that where the manager is not available or is absent for any reason there is an effective and competent deputising system to provide leadership on a day-to-day basis which: <ul style="list-style-type: none"> ○ continues to support individuals to achieve their advocacy needs; ○ maintains the safety, quality and effectiveness of the service; ○ ensures minimal disruption to individuals receiving the service; ○ ensures compliance with the Regulations; and ○ maintains staff professional development. • Where the manager, registered with SCW (subject to regulation 37(6)), is unavailable or absent for any reason for more than 28 days the responsible individual will inform the service regulator in writing and without delay of the reason for the absence and the arrangements for cover.
Regulation 43	Guidance
<p>Visits</p> <p>43.— (1) The responsible individual must—</p> <ul style="list-style-type: none"> (a) visit the premises from which the service is provided (b) meet with members of staff who are employed to provide the service in relation to each place in respect of which the responsible individual is designated, and (c) meet with individuals for whom advocacy is being provided in relation to each such place. 	<ul style="list-style-type: none"> • The responsible individual visits the service in person to monitor the performance of the service in relation to its statement of purpose and to inform the quality of care review. The visit includes the following: <ul style="list-style-type: none"> ○ talking to, with consent and in private, a sample of individuals using the service and their representatives (if applicable) and staff; and ○ inspecting the premises, a selection of records of events and any complaints records.

<p>(2) The frequency of such visits and meetings is to be determined by the responsible individual having regard to the statement of purpose but must be at least every three months.</p>	<ul style="list-style-type: none"> • The responsible individual ensures systems are in place to provide evidence that visits are logged and documented.
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2.2 Requirements on responsible individuals for ensuring effective oversight of the service (Part 12)

Regulation 44	Guidance
<p>Oversight of adequacy of resources</p> <p>44.— (1) The responsible individual must report to the service provider on the adequacy of the resources available to provide the service in accordance with the requirements on service providers in Parts 3 to 15.</p> <p>(2) Such reports must be made on a quarterly basis.</p> <p>(3) But this requirement does not apply where the service provider is an individual.</p>	<ul style="list-style-type: none"> • The responsible individual ensures that systems and processes are in place which enable them to collate information about the service and any areas that may need closer observation/consideration and/or improvement. This includes, but is not limited to: <ul style="list-style-type: none"> ○ staff turnover; ○ staff sickness levels; ○ complaints; ○ safeguarding issues; ○ inspection reports by the service regulator; and ○ inspection outcomes and or reports from other relevant agencies i.e. Health and Safety Executive (HSE) and fire service. • The responsible individual has suitable arrangements in place to alert the service provider immediately where the service is: <ul style="list-style-type: none"> ○ not complying with policies and procedures; ○ failing or unable to address issues raised in inspection reports; and ○ being provided in a way which is contrary to the statement of purpose.

Regulation 45	Guidance
<p>Other reports to the service provider</p> <p>45.— (1) The responsible individual must, without delay, report to the service provider—</p> <ul style="list-style-type: none"> (a) any concerns about the management or provision of the service; (b) any significant changes to the way the service is managed or provided; (c) any concerns that the service is not being provided in accordance with the statement of purpose for the service. <p>(2) But this requirement does not apply where the service provider is an individual.</p>	<ul style="list-style-type: none"> • The responsible individual ensures suitable arrangements are in place to report to the service provider in line with the requirements of regulations 45 and 50(4). • The responsible individual has a system in place to submit reports to the service provider that accurately reflect overall service quality and performance. This includes arrangements for the responsible individual to feed back and communicate any urgent matters requiring immediate action. This includes, but is not limited to: <ul style="list-style-type: none"> ○ natural disaster; ○ financial irregularities; ○ significant concerns raised by the service regulator or commissioners; and ○ any event which affects staff availability.

Regulation 46	Guidance
<p>Engagement with individuals and others</p> <p>46.— (1) The responsible individual must put suitable arrangements in place for obtaining the views of—</p> <ul style="list-style-type: none"> (a) individuals, (b) any representatives of those individuals, (c) service commissioners, and (d) staff employed at the service, <p>on the quality of advocacy provided and how this can be improved.</p>	<ul style="list-style-type: none"> • The responsible individual has suitable arrangements in place to enable feedback on all aspects of service provision and ensure that these arrangements are accessible to, and take into account the views of, all those listed under regulation 46(1). • The responsible individual ensures the methods used to engage with and gain the views of individuals using the service are appropriate to their age, level of understanding and take into account any specific condition and/ or communication needs.

<p>(2) The responsible individual must report the views obtained to the service provider so that these views can be taken into account by the service provider when making any decisions on plans for improvement of the quality of advocacy provided.</p>	<ul style="list-style-type: none"> • The responsible individual has positive relationships with, and is accessible to, people outside the service. This includes but is not limited to: <ul style="list-style-type: none"> ○ families or nominated representation; ○ service commissioners; ○ regulators; and ○ professional bodies.
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2.3 Requirements on responsible individuals for ensuring the compliance of the service (Part 13)

Regulation 47	Guidance
<p>Duty to ensure there are systems in place to record incidents and complaints</p> <p>47. The responsible individual must ensure that there are effective systems in place to record incidents, complaints and matters on which notifications must be made in accordance with regulations 32 and 54</p>	<ul style="list-style-type: none"> • The responsible individual ensures there are suitable arrangements in place for the recording of the matters set out in regulation 47. • The responsible individual has systems and processes in place to ensure that any records made are, legible, accurate and kept securely.
Regulation 48	Guidance
<p>Duty to ensure there are systems in place for keeping of records</p> <p>48. The responsible individual must ensure that there are effective systems in place in relation to the keeping of records, which include systems for ensuring the accuracy and completeness of records which are required to be kept by regulation 31.</p>	<ul style="list-style-type: none"> • Where records are stored electronically, they are secure and staff have individual access codes which provide a clear audit trail which shows who has made any entries and amendments.

Regulation 49	Guidance
<p>Duty to ensure policies and procedures are up to date</p> <p>49. The responsible individual must put suitable arrangements in place to ensure that the service provider’s policies and procedures are kept up to date, having regard to the statement of purpose.</p>	<ul style="list-style-type: none"> • The responsible individual ensures suitable arrangements are in place to review policies and procedures in line with regulation 9 and 49. • The responsible individual ensures suitable arrangements are in place to ensure staff have access to, and knowledge and understanding of, the policies and procedures which support them in their role in achieving the best possible outcomes for individuals.

2.4 Requirements on responsible individuals for monitoring, reviewing and improving the quality of the service (Part 14)

Regulation 50	Guidance
<p>Quality of service review</p> <p>50.— (1) The responsible individual must put suitable arrangements in place to establish and maintain a system for monitoring, reviewing and improving the quality of the service. (2) The system established under paragraph (1) must make provision for the quality of the service to be reviewed as often as required but at least every six months. (3) As part of any review undertaken, the responsible individual must make arrangements for—</p> <ul style="list-style-type: none"> (a) considering the outcome of the engagement with individuals and others, as required by regulation 46 (engagement with individuals and others); (b) analysing the aggregated data on incidents, notifiable 	<ul style="list-style-type: none"> • The responsible individual has suitable arrangements in place to assess, monitor and improve the quality and safety of the service. This includes, but is not limited to: <ul style="list-style-type: none"> ○ the collation and analysis of feedback from those listed under regulation 46(1); ○ issues and lessons learned in the analysis of complaints and safeguarding matters; ○ the outcome of any inspection reports from the service regulator; ○ the outcome of visits to monitor the service by the responsible individual; and ○ audits of records.

incidents, safeguarding matters, whistleblowing, concerns and complaints;

(c) reviewing any action taken in relation to complaints;

(d) considering the outcome of any audit of the accuracy and completeness of records.

(4) On completion of a review of the quality of service in accordance with this regulation, the responsible individual must prepare a report to the service provider which must include—

(a) an assessment of the standard of advocacy provided, and

(b) recommendations for the improvement of the service.

(5) But the requirement in paragraph (4) does not apply where the service provider is an individual.

- The responsible individual ensures that the audit systems and processes for monitoring the service give assurance that a high quality service is provided.
- The responsible individual has suitable arrangements in place to ensure systems and processes are continually reviewed to enable the responsible individual to identify where the quality and/or safety of services is being, or may be, compromised, and to respond appropriately without delay.
- The responsible individual has suitable arrangements in place to ensure all feedback is acknowledged, recorded and responded to as appropriate.
- The responsible individual has suitable arrangements in place to ensure areas of learning from complaints, safeguarding and whistleblowing are shared with staff to improve the service and encourage safe, compassionate care practices.
- The responsible individual ensures areas of learning are analysed and that recommendations are made to the service provider as to how and where the quality and safety of the service can be improved. The report, which includes the information that has informed it (relating to those areas set out above) will inform or form part of the statement of compliance to be included in the service provider's annual return.

Regulation 51	Guidance
<p>Statement of compliance with the requirements as to standards of advocacy services</p> <p>51.— (1) The responsible individual must prepare the statement required to be included in the annual return under section 10(2)(b) of the Act, in so far as it relates to the place or places in respect of which the responsible individual has been designated. (2) When preparing the statement, the responsible individual must have regard to the assessment of the standard of advocacy service which is contained in a report prepared in accordance with regulation 50(4).</p>	<ul style="list-style-type: none"> • The responsible individual has prepared and is accountable for the quality and accuracy of the information provided in the statement of compliance and service provider’s annual return.

2.5 Other requirements on responsible individuals (Part 15)

Regulation 52	Guidance
<p>Support for staff raising concerns</p> <p>52. The responsible individual must ensure that the provider’s whistleblowing policy is being complied with and that the arrangements to enable and support people working at the service to raise such concerns are being operated effectively.</p>	<ul style="list-style-type: none"> • The responsible individual ensures suitable arrangements are in place for: <ul style="list-style-type: none"> ○ staff to be aware of and understand the whistleblowing policy; ○ ensuring staff are encouraged and supported to report issues; and ○ ensuring staff understand that concerns are welcomed and sought out, not ignored.

Regulation 53	Guidance
<p>Duty of candour</p> <p>53. The responsible individual must act in an open and transparent way with—</p> <ul style="list-style-type: none"> (a) individuals, (b) any representatives of those individuals. 	<ul style="list-style-type: none"> • The responsible individual acts in an open and transparent way, also ensuring suitable arrangements are in place to ensure compliance with the requirements of regulation 53.
Regulation 54	Guidance
<p>Notifications</p> <p>54.— (1) The responsible individual must notify the service regulator of the events specified in Schedule 4.</p> <p>(2) The notifications required by paragraph (1) must include details of the event.</p> <p>(3) Unless otherwise stated, notifications must be made without delay and in writing.</p> <p>(4) Notifications must be made in such manner and in such form as may be required by the service regulator.</p>	<ul style="list-style-type: none"> • The responsible individual has suitable arrangements in place to notify the service regulator of events specified in Schedule 4 of the Regulations.

PART 1
General

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Regulated Advocacy Services (Service Providers and Responsible Individuals) (Wales) Regulations 2019.

(2) These Regulations come into force on 29 April 2019.

(3) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“advocacy” (“*eiriolaeth*”) means assistance given to help a person represent their views;

“advocacy plan” (“*cynllun eirioli*”) means the plan prepared by the service provider in relation to an individual in accordance with regulation 12;

“child” (“*plentyn*”) means a person who is aged under 18;

“DBS” (“*GDG*”) or “the Disclosure and Barring Service” (“*y Gwasanaeth Datgelu a Gwahardd*”) mean the body established by section 87(1) of the Protection of Freedoms Act 2012(7);

“DBS certificate” (“*tystysgrif GDG*”) means a certificate of a type referred to in paragraph 2 or 3 of Schedule 1;

“individual” (“*unigolyn*”), except where the context otherwise requires, means a person for whom the service provider is providing, or has provided advocacy, or for whom the service provider may provide advocacy;

“representative” (“*cynrychiolydd*”) means any person having legal authority, or having the consent of the individual to act on the individual’s behalf;

“service” (“*gwasanaeth*”) means an advocacy service as defined in regulation 2 which is provided in relation to a specified area;

“service commissioner” (“*comisiynydd y gwasanaeth*”) means a local authority which is responsible for making arrangements with a service provider for the provision of assistance to a child or person under section 178(1) of the 2014 Act(8);

“service provider” (“*darparwr gwasanaeth*”) means an advocacy service provider who is registered under section 7 of the Act;

“service regulator” (“*rheoleiddiwr gwasanaethau*”) means the Welsh Ministers in exercise of their regulatory functions(9);

“specified area” (“*ardal benodedig*”) means an area which is specified in a condition to the service provider’s registration as a place in relation to which the service is to be provided;

“statement of purpose” (“*datganiad o ddiben*”) means the statement of purpose for the service which a service provider must keep under review and revise in accordance with regulation 4(10).

(7) 2012 c. 9.

(8) “The 2014 Act” is defined in section 189 of the Act as the Social Services and Well-Being (Wales) Act 2014 (anaw 4).

(9) “Regulatory functions” are defined in section 3(1)(b) of the Act.

(10) The contents of the statement of purpose are prescribed in regulation 4 of, and Schedule 2 to, the Regulated Services (Registration) (Wales) Regulations 2017 (S.I. 2017/1098 (W. 278)).

Definition and exceptions

2. —(1) For the purpose of paragraph 7(1) of Schedule 1 to the Act, an advocacy service is—

- (a) a service carried on to provide advocacy for children who make or intend to make representations which fall within section 174 of the 2014 Act⁽¹¹⁾; or
- (b) a service carried on to provide advocacy for persons who make or intend to make representations which fall within section 176 of the 2014 Act⁽¹²⁾,

where the purpose of the advocacy is to represent the views of the children or persons or to assist them to represent their views in relation to their needs for care and support⁽¹³⁾.

(2) But a service referred to in paragraph (1) is not an advocacy service—

- (a) if it is provided by a person in the course of a legal activity within the meaning of the Legal Services Act 2007⁽¹⁴⁾ by a person who is—
 - (i) an authorised person for the purposes of that Act, or
 - (ii) a European lawyer (within the meaning of the European Communities (Services of Lawyers) Order 1978⁽¹⁵⁾);
- (b) if the assistance is provided by a Welsh family proceedings officer in the course of discharging functions in relation to family proceedings;
- (c) if the assistance is provided by the Children’s Commissioner for Wales or by a member of staff of the Children’s Commissioner for Wales;
- (d) if it is provided by a person who has not provided and does not intend to provide advocacy to more than 4 persons within any 12 month period;
- (e) to the extent that it is provided by a relative or friend of the person on whose behalf representations are made or are intended to be made.

(3) In this regulation—

- (a) the following words and phrases have the meanings ascribed to them—
 - (i) “relative” means a parent or other person with parental responsibility, brother, sister, uncle or aunt (whether by marriage or civil partnership), grandparent, step-parent, foster parent or prospective adopter with whom the child is placed;
 - (ii) “family proceedings” has the meaning given by section 12 of the Criminal Justice and Court Services Act 2000⁽¹⁶⁾;
 - (iii) “Welsh family proceedings officer” has the same meaning as in section 35(4) of the Children Act 2004⁽¹⁷⁾;
 - (iv) “sibling group” includes both brothers and sisters and half-brothers and half-sisters; and

(11) Section 174 of the 2014 Act requires a local authority to establish a procedure for considering representations (including complaints) made to the authority in relation to a range of its social services functions in so far as they are exercisable in relation to a child.

(12) Section 176 of the 2014 Act requires a local authority to establish a procedure for considering representations (including complaints) about the discharge of its functions under Parts 3 to 7 of the 2014 Act in relation to children or young persons who have previously been looked after and related other young persons.

(13) Paragraph 7(3) of Schedule 1 to the 2016 Act requires that a service can only be specified as an advocacy service for the purposes of the 2016 Act if it is a service which is carried on (whether or not for profit) for the purpose of representing the views of individuals or assisting individuals to represent those views, in respect of matters relating to those individuals needs for care and support (including matters relating to assessing whether those needs exist).

(14) 2007 c. 29.

(15) S.I. 1978/1910.

(16) 2000 c. 43.

(17) 2004 c. 31.

- (b) in determining whether a person has provided or intends to provide an advocacy service to more than 4 persons for the purpose of paragraph (2)(d), provision of advocacy to a sibling group is counted as provision of advocacy to a single person.

PART 17

Service providers who are liquidated etc. or who have died

Appointment of liquidators etc.

57. An appointed person⁽¹⁸⁾ must—

- (a) without delay, give written notification to the service regulator of their appointment and the reasons for their appointment;
- (b) within 28 days of their appointment, notify the service regulator of their intentions regarding the future operation of the service.

Death of service provider

58.—(1) Where a service provider who is an individual has died, the personal representatives of the individual must—

- (a) without delay, give written notification of the death to the service regulator;
- (b) within 28 days of the death, notify the service regulator of their intentions regarding the future operation of the service.

(2) The personal representatives of the individual may act in the capacity of the service provider for a period not exceeding 28 days or for such longer period (not exceeding one year) as the service regulator may agree.

(3) Where the personal representatives are acting in the capacity of the service provider in accordance with paragraph (2), Part 1 of the Act applies with the following modifications—

- (a) section 5 (requirement to register) does not apply;
- (b) in section 21(2) (responsible individuals) after paragraph (a) insert—
 - “(aa) where the personal representatives of a service provider who has died are acting in the capacity of the service provider, be one of the personal representatives;”.

PART 18

Regulations under section 21(5) of the Act

Designation of responsible individual by Welsh Ministers

59. The Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual, despite the requirements of section 21(2) of the Act not being met in respect of the individual, in the following circumstances—

- (a) the service provider is an individual who has died and the personal representatives of the service provider have notified the service regulator that they do not intend to make an application under section 11(1)(c) of the Act;
- (b) the service provider is an individual and they have notified the service regulator—
 - (i) that they are no longer able to comply with their duties as a responsible individual, and

(18) “Appointed person” has the same meaning as in section 30 of the Act.

- (ii) the reasons for this being the case;
- (c) the service provider is a corporate body or partnership and they have notified the service regulator—
 - (i) that the individual designated by the service provider as the responsible individual is no longer able to comply with their duties as a responsible individual,
 - (ii) the reasons for this being the case, and
 - (iii) that there is no other individual who is eligible to be a responsible individual and who is able to comply with the duties of a responsible individual.

SCHEDULE 1 Regulation 24

PART 1

Information and documents to be available in respect of persons working in regulated services

1. Proof of identity including a recent photograph.
2. Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997⁽¹⁹⁾, a copy of a valid criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request).
3. Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of a valid enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children (within the meaning of section 113BA(2) of that Act) or suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act).
4. Two written references, including a reference from the last employer, if any.
5. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the employment or position ended.
6. Documentary evidence of any relevant qualification.
7. Where relevant, documentary evidence of registration with SCW.
8. A full employment history, together with a satisfactory written explanation of any gaps in employment.
9. Evidence of satisfactory linguistic ability for the purposes of providing advocacy to those individuals for whom the worker is to provide it.
10. Details of registration with or membership of any professional body.

PART 2

Interpretation of Part 1

11. For the purposes of paragraphs 2 and 3 of Part 1 of this Schedule—
 - (a) if the person to whom the certificate relates is not registered with the DBS update service, a certificate is only valid if—
 - (j) it has been issued in response to an application by the service provider in accordance with regulation 24(3) or (6); and
 - (ii) no more than three years have elapsed since the certificate was issued;
 - (b) if the person to whom the certificate relates is registered with the DBS update service, the certificate is valid regardless of when it was issued.

(19) 1997 c. 50.

SCHEDULE 2 Regulation 31

Records to be kept

- 1.** In respect of each individual, records of—
 - (a) advocacy plans and revised advocacy plans,
 - (b) correspondence, reports and records in relation to the matters for which advocacy is provided and the outcome.
- 2.** A record of any charges by the service provider to individuals for the provision of advocacy and any additional services.
- 3.** A record of all complaints made by individuals or their representatives or by persons working at the service about the operation of the service, and the action taken by the service provider in respect of any such complaint.
- 4.** A record of all persons working at the service, which must include the following matters—
 - (a) the person's full name, address, date of birth, qualifications and experience,
 - (b) a copy of the person's birth certificate and passport (if any),
 - (c) a copy of each reference obtained in respect of the person,
 - (d) the dates on which the person commences and ceases to be so employed,
 - (e) the position the person holds at the service, the work the person performs and the number of hours for which the person is employed each week,
 - (f) records of disciplinary action and any other records in relation to the person's employment,
 - (g) a record of the date of a DBS certificate and whether there was any action taken as a result of the content of the certificate.

SCHEDULE 3 Regulation 32
Notifications by the service provider

1. Any revision to the statement of purpose, 28 days prior to the revised statement of purpose coming into effect.
2. Service provider (individual or organisation) changes their name.
3. Where the service provider is a company, any change in the directors of the company.
4. Where the service provider is an individual, the appointment of a trustee in bankruptcy in relation to that individual.
5. Where the service provider is a body corporate or partnership, the appointment of a receiver, manager, liquidator or provisional liquidator in relation to that company or partnership.
6. Where the service provider is a partnership, death of one of the partners.
7. Where the service provider is a partnership, any change in the partners.
8. Expected absence of the responsible individual for 28 days or more, 7 days prior to commencement of the absence.
9. The unexpected absence of the responsible individual, no later than 7 days after the commencement of the absence.
10. Unexpected absence of the responsible individual for 28 days or more, where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
11. Return from absence of the responsible individual.
12. The responsible individual ceases, or proposes to cease, being the responsible individual for the service.
13. Any abuse or allegation of abuse in relation to an individual that involves the service provider and/or a member of staff.
14. Service provider, responsible individual or appointed manager convicted of a criminal offence.
15. Any allegation of misconduct by a member of staff.
16. Any incident reported to the police.
17. Any events which prevent, or could prevent, the provider from continuing to provide the service safely.
18. Any proposal to change the address of the principal office, 28 days prior to the change taking place.
19. Any referral to the DBS pursuant to the Safeguarding Vulnerable Groups Act 2006(20).
20. Where the service provider, responsible individual or appointed manager is charged with any offence specified in the Schedule to the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009(21), notice of the offence charged and the place of charge.
21. Incident of child sexual or criminal exploitation or suspected child sexual or criminal exploitation.

20 2006 c. 47.
21 S.I. 2009/37.

SCHEDULE 3 Regulation 54
Notifications by the responsible individual

- 1.** The appointment of a manager (see regulation 41).
- 2.** The expected absence of the appointed manager for 28 days or more, 7 days prior to the commencement of the absence.
- 3.** The unexpected absence of the appointed manager, no later than 7 days after the commencement of the absence.
- 4.** The unexpected absence of appointed manager for 28 days or more where no prior notification has been given, immediately on the expiry of 28 days following the commencement of the absence.
- 5.** Return from absence of appointed manager.
- 6.** Interim arrangements where the manager is absent for longer than 28 days.
- 7.** Someone other than the appointed manager is proposing to manage or is managing the service.
- 8.** The appointed manager ceases, or proposes to cease, managing the service.