
**THE REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT
2016 – BRIEFING**

Purpose of Report

1. To provide Members with an overview of the duties and responsibilities for the Council and its Partners in relation to the Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA), referred to throughout this report as “the Act”.

Background

2. On formulating its work programme for 2018/19, the Committee requested they receive a briefing on the duties and responsibilities for the Council and providers of social care under RISCA.
3. The Regulation and Inspection of Social Care (Wales) Act received Royal Assent and became law on 18 January 2016¹. The Act was introduced to ensure continuous improvement of the quality of care and support in Wales. It embeds the aims of the Social Services and Well-being (Wales) Act 2014 and the Well-being of Future Generations (Wales) Act 2015.

¹ Source: <https://socialcare.wales/hub/regulation-and-inspection>

4. The Act provides the statutory framework for the regulation and inspection of social care in Wales. It:
 - reforms the regulation of social care in Wales by placing people who receive care and support at its centre;
 - reforms the regulation of the social care workforce;
 - renames the Care Council for Wales and the Social Services Improvement Agency, Social Care Wales, giving them new powers from April 2017;
 - reforms the inspection of local authority social services functions; and
 - provides a robust response to the lessons learned from previous failures in the system.

5. Five principles underpin the new system of regulation and inspection:
 - reflecting the changes brought about by the Social Services and Well-being (Wales) Act 2014
 - putting people at the centre of their care and support
 - developing a coherent and consistent Welsh approach
 - tackling provider failure
 - responding quickly and effectively to new models of service and any concerns over the quality of care and support.

6. The Act, its Regulations and statutory guidance replace requirements previously put in place under the Care Standards Act 2000 and its associated National Minimum Standards.

7. In February 2018, Welsh Government released statutory guidance in relation to the Parts 3-20 of the Act².

8. Parts 3 to 15 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 care and support¹. They also impose other requirements on service providers related to the operation of the regulated service.

² See paragraph * for link to the Guidance.

9. These standards are linked to the well-being statement for people who need care and support and carers who need support.
10. Parts 16 to 20 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 ensures 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.

Issues

11. A link to the Act is set out below:

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

12. Welsh Government released Statutory Guidance for Service Providers and Responsible Individuals on meeting RISSA service standard regulations in February 2018. A link to the guidance is set out below (125 pages).

<https://gov.wales/docs/dhss/publications/180201statutory-guidanceen.pdf>

13. A summary of the Statutory Guidance is set out below:

Requirements on Service Providers (Parts 3 to 15 of the Regulations) pages 7-

95

14. General requirements on service providers (Part 3)

The intent of the general requirements within Part 3 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 care and support for individuals using the service and to support them to achieve their personal outcomes. This includes the following:

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

15. Requirements on service providers as to the steps to be taken before agreeing to provide care and support (Part 4)

The intent of the requirements within Part 4 of the Regulations is to provide individuals with assurance that before a service provider offers care and support they have considered a wide range of information to confirm the service is able to meet the individual's needs and support them to achieve their personal outcomes. This includes the individual's wishes and preferences and consultation with relevant persons and professionals.

16. Requirements on service providers as to the steps to be taken on commencement of the provision of care and support (Part 5)

The intent of Part 5 of the Regulations is to ensure that individuals can feel confident that service providers have an up to date, accurate plan (referred to as ***personal plan***) for how their care is to be provided.

The provider develops an initial personal plan before the service begins using existing information, assessments and any care and support plans in place. The personal plan is then developed further during the first week of using the service through a full assessment undertaken by the provider (provider assessment) with the individual and their representative. The provider assessment considers their personal wishes, aspirations and care and support needs. The information from this is used to further develop the personal plan.

The personal plan:

- provides information for individuals and their representatives of the agreed care and support and the manner in which this will be provided;
- provides a clear and constructive guide for staff about the individual, their care and support needs and the outcomes they would like to achieve;
- provides the basis for ongoing review; and

- enables individuals, their representatives and staff to measure progress and whether their personal outcomes are met.

17. Requirements on service providers as to the information to be provided to individuals on commencement of the provision of care and support (Part 6)

The intent of Part 6 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; and
- the manner in which services will be provided; and the terms and conditions of the service.

This should enable individuals, placing authorities and any representatives to have a good understanding of how the service operates in providing care and support. The guide provides individuals, placing authorities and any representatives with 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.

18. Requirements on service providers as to the standard of care and support to be provided (Part 7)

The intent of Part 7 of the Regulations is to ensure that individuals are provided with care and support which enables them to achieve the best possible outcomes. The service is designed in consultation with the individual and considers their personal wishes, aspirations and outcomes and any risks and specialist needs which inform their care and support.

This includes:

- providing care and support that meets individual's personal outcomes;
- provision of staff with the knowledge, skills and competency to meet individual's well-being needs;
- ensuring staff have the appropriate language and communication skills;
- planning and deploying staff to provide continuity of care; and
- consultation with and seeking support from relevant agencies and specialists where required.

19. Requirements on service providers – safeguarding (Part 8)

The intent of Part 8 of the Regulations is to ensure that service providers have in place the mechanisms to safeguard vulnerable individuals to whom they provide care and support. This includes arrangements that:

- support vulnerable 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; and
- collaboratively work with partners to prevent and take action where abuse, neglect or improper treatment is suspected.

20. Requirements on service providers which only apply where accommodation is provided (Part 9)

The intent of Part 9 of the Regulations is to ensure that where accommodation is provided, individuals are supported to access healthcare and other services to maintain their ongoing health, development and well-being

21. Requirements on service providers as to staffing (Part 10)

The intent of Part 10 of the Regulations is to ensure that individuals are supported by appropriate numbers of staff who have the knowledge, competency, skills and qualifications to provide the levels of care and support required to achieve the individual's personal outcomes.

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
- management structure, systems and processes for induction, ongoing supervision, training and development of staff.

22. Requirements on service providers in respect of domiciliary support services (Part 11)

The intent of Part 11 of the Regulations set out the requirements for a domiciliary support service which the provider is registered to provide.

This includes:

- a "schedule of visits" which delineates the time allowed for each visit and the time allowed for travel between each visit;
- the offer to domiciliary care workers on non-guaranteed hours contracts the choice of alternative contractual arrangements.

23. Requirements on service providers as to premises, facilities and equipment (Part 12)

The intent of Part 12 of the Regulations set out the requirements for service providers to ensure that individual's care and support is provided in a location and environment with facilities and, where relevant, equipment that promotes achievement of their personal outcomes. The requirements of Part 12 apply to all providers of care home services, secure accommodation services or residential family centre services.

This includes:

- ensuring that systems and processes are in place which promote a safe and high quality environment in which the services are provided;
- ensuring the physical environment provides individual and communal space to meet their care and support needs; and
- facilities and equipment which are well maintained and appropriate to the individuals using the service.

24. Additional requirements on service providers in respect of premises – new accommodation (Part 13)

The intent of Part 13 of the Regulations is to develop accommodation-based services to provide consistently high quality environments for individuals receiving care and support. This is to provide choice and support for individuals to maintain their privacy and dignity and independence. The requirements of Part 13 apply to service providers registered to provide care home services, secure accommodation services or residential family centre services.

25. Requirements on service providers as to supplies, hygiene, health and safety and medicines (Part 14)

The intent of Part 14 of the Regulations is to ensure that individuals are supported by a service that:

- has sufficient quantities of supplies for their care and support needs;
- has safe systems for medicines management;
- identifies and mitigates risks to health and safety; and
- promotes hygienic practices and manages the risk of infection.

26. Other requirements on service providers (Part 15)

The intent of Part 15 of the Regulations is to ensure that individuals are protected by a service that works proactively to secure their care and support and protect their rights by:

- maintaining accurate records which are available to them and their representatives;
- communicating with the relevant regulatory bodies and statutory agencies where there are concerns and significant events affecting individuals;
- ensuring an open and transparent service by promoting an accessible complaints policy and procedure;
- supporting staff to raise concerns about the service through whistleblowing procedures; and
- demonstrate learning from concerns and complaints to improve the service.

Requirements on Responsible Individuals (Parts 16 to 20 of the Regulations) – pages 96 - 110

27. The intent of Parts 16 to 20 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.

28. The responsible individual is responsible for overseeing management of the service and for providing assurance that the service is safe, well run and complies with 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.

29. A summary of the requirements are set out as follows:

- Requirements on responsible individuals for ensuring effective management of the service (Part 16)
- Requirements on responsible individuals for ensuring effective oversight of the service (Part 17)
- Requirements on responsible individuals for ensuring the compliance of the service (Part 18)
- Requirements responsible individuals for monitoring, reviewing and improving the quality of the regulated service (Part 19)
- Other Requirements on responsible Individuals (Part 20)

Way Forward

30. At this meeting, Councillor Susan Elsmore (Cabinet Member for Social Care, Health & Wellbeing) will be invited to make a statement. Claire Marchant (Director of Social Services) will be in attendance to provide Members with a presentation on what RISCA means in practice for Cardiff Council and its partners. The Cabinet Member and Officer will also be in attendance to answer Members' questions.

31. Members may decide any comments, observations or recommendations they wish to pass to the Cabinet Member for her consideration following the presentation at this meeting.

Legal Implications

32. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

33. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

It is recommended that the Committee:

- i. Consider the information provided in this report and the presentation made at this meeting; and
- ii. Decide the way forward with regard to any further scrutiny of this issue.

DAVINA FIORE

Director of Governance and Legal Services

4 October 2018