

Health and Social Care (Wales) Act 2025

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Health and Social Care (Wales) Act 2025

An Act of Senedd Cymru to make provision about the regulation and provision of social care services and health care in Wales. [24 March 2025]

Having been passed by Senedd Cymru and having received the assent of His Majesty, it is enacted as follows:

PART 1

SOCIAL CARE

CHAPTER 1

PROVISION OF SOCIAL CARE SERVICES TO CHILDREN: RESTRICTIONS ON PROFIT

Overview of Chapter

1 Overview of Chapter 1

(1) This Chapter makes provision to restrict the making of profit in the provision of care home services provided wholly or mainly to children (children's home services), fostering services and secure accommodation services (referred to as "restricted children's services").

(2) It does this by amending Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) ("the 2016 Act") and Part 6 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) ("the 2014 Act").

(3) The amendments to the 2016 Act include—

(a) imposing a requirement on a provider of a restricted children's service that is registered after the coming into force of the provisions to be incorporated as a "not-for-profit entity";

(b) providing that unreasonable or disproportionate financial arrangements entered into by such an entity are evidence to which the Welsh Ministers must have regard when deciding if a provider is a fit and proper person;

(c) transitional provision for a provider of a restricted children's service that is registered prior to the coming into force of these provisions (any such provider that remains registered but is not incorporated as a not-for-profit entity may remain registered subject to conditions imposed by regulations).

(4) The amendments to the 2014 Act impose corresponding requirements on a local authority in relation to accommodation provided by the authority to looked after children, including—

(a) amending an existing duty (in section 75 of the 2014 Act) on the authority to take steps to secure that there is sufficient accommodation within its area to meet the needs of looked after children so as to instead require the authority to take all reasonable steps to secure that there is sufficient accommodation provided by not-for-profit entities either within or near to its area to meet the needs of such children;

(b) a new duty on the local authority to submit a sufficiency plan to the Welsh Ministers setting out what steps it is taking to meet the requirement in section 75;

(c) amending an existing duty on the local authority to report to the Welsh Ministers annually (section 144A of the 2014 Act) to reflect both the duty to secure accommodation and the new sufficiency plan.

(5) The duty in the 2014 Act on a local authority to place a looked after child, who cannot live with a parent, in a children's home or with foster parents is also amended so that where these circumstances arise, the local authority must place the child in accommodation provided by a not-for-profit entity unless that is inconsistent with the duties of the local authority under section 78 of that Act (duty to promote well-being of child) (in which case, the authority must apply for the Welsh Ministers to approve a placement in accommodation provided by a provider that does not meet the requirements imposed under the 2016 Act).

Regulation of social care services provided to children

2 Restricted children's services

In the 2016 Act—

(a) in section 1, after paragraph (b) insert—

"(ba) Chapter 2 also makes provision restricting the entities that may provide children's home services, secure accommodation services and fostering services;";

(b) after section 2 insert—

"2A Meaning of "restricted children's service"

(1) For the purposes of this Part, the following regulated services are a "restricted children's service"—

(a) a care home service in so far as the service is a children's home service;

(b) a fostering service;

(c) a secure accommodation service.

(2) For the purposes of subsection (1), a "children's home service" is a care home service provided at one or more places at which the service is provided wholly or mainly to children.

(3) Schedule 1 makes further provision about the meaning of a restricted children's service."

(c) in Schedule 1, after paragraph 1(3) insert—

"(3A) But a school that constitutes a care home service by virtue of sub-paragraph (3) does not constitute a children's home service unless–

(a) it has provided more days of accommodation to looked after children than to children who are not looked after children for any period of 12 months falling within the previous 24 months, or

(b) it intends to provide more days of accommodation to looked after children than to children who are not looked after children for any period of 12 months falling within the following 24 months.

(3B) In sub-paragraph (3A), "looked after children" means children who are looked after by local authorities as described in section 74(1) of the 2014 Act."

3 Applications for registration in respect of restricted children's services

(1) The 2016 Act is amended as follows.

(2) In section 6, after subsection (1) insert—

"(1A) In the case of a person, other than a local authority, who wants to provide a restricted children's service, the application must also include such information as may be prescribed to satisfy the Welsh Ministers that the person meets the requirement in section 6A(1)."

(3) After section 6 insert—

"6A Registration in respect of a restricted children's service

(1) To be registered in respect of a restricted children's service, a person who is not a local authority must be a not-for-profit entity.

(2) For the purposes of this Part, a "not-for-profit entity" is a person that meets conditions 1 and 2 in subsections (3) and (4).

(3) Condition 1 is that the person's objects or purposes primarily relate to—

(a) the welfare of children, or

(b) such other public good as the Welsh Ministers may prescribe.

(4) Condition 2 is that the person is one of the following types of undertaking (as defined in section 6B)—

(a) a charitable company limited by guarantee without a share capital,

(b) a charitable incorporated organisation,

(c) a charitable registered society, or

(d) a community interest company limited by guarantee without a share capital.

6B Registration in respect of a restricted children's service: definitions

(1) The following definitions apply for the purposes of section 6A(4).

(2) A "charitable company limited by guarantee without a share capital" is a company—

(a) that is registered under the Companies Act 2006 (c. 46) in Wales, England, Scotland or Northern Ireland,

(b) whose liability is limited by guarantee and that does not have a share capital, and

(c) that is a charity registered under one or more of—

(i) the Charities Act 2011 (c. 25);

(ii) the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);

(iii) the Charities Act (Northern Ireland) 2008 (c. 12).

(3) A "charitable incorporated organisation" is an organisation registered under—

(a) section 209, 232 or 238 of the Charities Act 2011 or regulations made under section 234 of that Act,

(b) section 55, 58 or 60 of the Charities and Trustee Investment (Scotland) Act 2005, or

(c) section 111, 114 or 117 of the Charities Act (Northern Ireland) 2008 or regulations made under section 115 of that Act.

(4) A "charitable registered society" is—

(a) a society that is—

(i) a "registered society" within the meaning of section 1(1) of the Co-operative and Community Benefit Societies Act 2014 (c. 14), and

(ii) a charity within the meaning of section 1(1) of the Charities Act 2011,

(b) a society that is—

(i) a "registered society" within the meaning of section 1(1) of the Co-operative and Community Benefit Societies Act 2014, and

(ii) a charity registered under the Charities and Trustee Investment (Scotland) Act 2005, or

(c) a society that is—

(i) a "registered society" within the meaning of section 1A(1) of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 (c. 24), and

(ii) a charity registered under the Charities Act (Northern Ireland) 2008.

(5) A "community interest company limited by guarantee without a share capital" is a company—

(a) that is registered under the Companies Act 2006 in Wales, England, Scotland or Northern Ireland,

(b) whose liability is limited by guarantee and that does not have a share capital, and

(c) that is a community interest company under Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27).

(6) In subsections (2) and (5)—

(a) references to a company's liability being "limited by guarantee" have the meaning given by section 3(3) of the Companies Act 2006, and

(b) a company does not have a share capital if it does not have power under its constitution to issue shares.

4 Registration in respect of a restricted children's service: transitional arrangements

(1) The 2016 Act is amended as follows.

(2) After section 6B (as inserted by section 3) insert—

"6C Registration in respect of a restricted children's service: transitional arrangements

Schedule 1A makes provision for transitional arrangements in respect of service providers registered prior to the coming into force of section 6A(1)."

(3) After Schedule 1 insert—

"SCHEDULE 1A
(as introduced by section 6C)

RESTRICTED CHILDREN'S SERVICES: TRANSITIONAL REGISTRATION ARRANGEMENTS FOR EXISTING SERVICE PROVIDERS

Transitional period in respect of restricted children's services

1 (1) In this Schedule, in relation to a restricted children's service, references to the transitional period are to the period that—

(a) begins with the day on which the service becomes a restricted children's service by virtue of section 6A(1) coming into force in relation to the service, and

(b) ends with the day appointed by the Welsh Ministers by regulations for the purposes of this paragraph.

(2) Regulations made under sub-paragraph (1)(b) may appoint different days for—

(a) different types of restricted children's service;

(b) different descriptions of service provider (for example service providers that specialise in the provision of a particular type of restricted children's service).

(3) But sub-paragraph (2) does not limit the application of section 187 in relation to regulations made under sub-paragraph (1)(b).

(4) Before making regulations under sub-paragraph (1)(b) the Welsh Ministers must consult any persons they think appropriate.

Existing service providers: exemption from section 6A(1)

2 (1) This paragraph applies to a service provider, other than a local authority, who is registered—

(a) in respect of a children's home service, when the transitional period begins in respect of that service;

(b) in respect of a fostering service, when the transitional period begins in respect of that service;

(c) in respect of a secure accommodation service, when the transitional period begins in respect of that service.

(2) And this paragraph applies to such a service provider during the transitional period.

(3) In this Schedule, in relation to a provider, references to the existing service are to the service in respect of which the provider is registered as described in sub-paragraph (1).

(4) In so far as a service provider to which this paragraph applies is registered in respect of the existing service—

(a) the registration of the provider is not subject to the requirement in section 6A(1) (and any reference to that requirement is to be read accordingly), and

(b) (in consequence) the entry in the register in respect of the provider must show—

(i) that the provider's registration in respect of the existing service is not subject to the requirement in section 6A(1), and

(ii) that the condition in section 7(3)(aa) is not imposed on the provider's registration in respect of that service.

(5) But sub-paragraph (4) does not apply for the purposes of an application made by the service provider—

(a) in relation to the existing service, under section 11(1)(a)(ii);

(b) in respect of any other service, under section 11(1)(a)(i).

Regulations about provision of restricted children's services by existing service providers

3 (1) The Welsh Ministers may by regulations make provision imposing conditions on a service provider to which paragraph 2 applies.

(2) Conditions imposed by regulations under sub-paragraph (1) may include—

(a) restrictions on the type of restricted children's service that the service provider may provide;

(b) restrictions on the description of looked after children in respect of whom the provider may provide the restricted children's service, for example by reference to their care and support needs.

(3) Sub-paragraph (4) applies where—

(a) a service provider fails to comply with conditions imposed by regulations under sub-paragraph (1), or

(b) in the case of a service provider described in paragraph 2(1)(b), the provider fails to comply with regulations made under section 87 of the 2014 Act.

(4) Where this sub-paragraph applies, the Welsh Ministers may—

(a) exercise their functions under section 13 to vary the provider's registration by removing the service or a place at which the existing service is provided, or

(b) exercise their functions under section 15 to cancel the provider's registration in respect of the existing service.

(5) Before making regulations under sub-paragraph (1) the Welsh Ministers must consult any persons they think appropriate.

Existing service providers: application for variation of registration

4 (1) This paragraph applies in respect of a service provider that is registered in respect of an existing service.

(2) Despite paragraph 2(4), a service provider to which this paragraph applies may apply to the Welsh Ministers for the provider's registration in respect of the existing service to be subject to the requirement in section 6A(1).

(3) But where a service provider to which this paragraph applies makes an application under section 11(1)(a)(i) or (ii) in respect of a restricted children's service that is not the existing service, the provider must apply to the Welsh Ministers for the provider's registration in respect of the existing service to be subject to the requirement in section 6A(1).

(4) An application under this paragraph must—

(a) include such information as may be prescribed to satisfy the Welsh Ministers that the person meets the requirement in section 6A(1), and

(b) be in the prescribed form.

(5) The Welsh Ministers must grant an application under this paragraph if satisfied that—

(a) the application—

(i) contains everything required under sub-paragraph (4)(a), and

(ii) meets the requirements prescribed under sub-paragraph (4)(b), and

(b) the provider meets the requirement in section 6A(1).

(6) In any other case the Welsh Ministers must refuse the application.

(7) Where the Welsh Ministers grant an application under sub-paragraph (5), the Welsh Ministers must, in so far as the provider is registered in respect of the existing service—

(a) impose the condition in section 7(3)(aa) on the provider's registration;

(b) show in the register that—

(i) the provider's registration in respect of the existing service is subject to the requirement in section 6A(1), and

(ii) the condition in section 7(3)(aa) is imposed on the provider's registration in respect of that service.

(8) Where a variation under this paragraph takes effect, paragraphs 2(4) and 3 do not apply to the service provider.

(9) A variation under this paragraph takes effect only if the requirements of section 18 to 20 are met (so far as applicable).

Interpretation

5 In this Schedule—

(a) "looked after children" means children who are looked after by local authorities as described in section 74(1) of the 2014 Act;

(b) references to the "register" are to the register maintained under section 38 of this Act."

(4) In section 45, after "section 27 or 37(2)(a)" insert "or under paragraph 3(1) of Schedule 1A".

5 Grant or refusal of registration in respect of a restricted children's service

(1) The 2016 Act is amended as follows.

(2) In section 7(1), after paragraph (a) insert—

"(aa) in the case of an application in respect of a restricted children's service, the applicant meets the requirement in section 6A(1);".

(3) In section 7(3)—

(a) at the end of paragraph (a) omit "and";

(b) after paragraph (a) insert—

"(aa) must, in the case of an application in respect of a restricted children's service, be subject to a condition that the service provider notify the Welsh Ministers of any circumstances under which the provider no longer meets the requirement in section 6A(1), and".

6 Fit and proper person: relevant considerations

(1) The 2016 Act is amended as follows.

(2) In section 9(7), after paragraph (d) insert—

"(e) where the person is a service provider that—

(i) is registered in respect of a restricted children's service, and

(ii) is subject to the requirement in section 6A(1),

whether it appears to the Welsh Ministers that the provider has entered into a financial arrangement that falls within section 9A."

(3) After section 9 insert—

"9A Fit and proper person test: financial arrangements relating to restricted children's services

(1) For the purposes of the fit and proper person test in section 9, a financial arrangement falls within this section if it is an arrangement with or for the benefit of a relevant person that—

(a) is unreasonable or disproportionate in all of the circumstances, and

(b) (in consequence) may undermine the service provider's pursuit of its objects or purposes (as to which, see section 6A(3)).

(2) When determining whether such a financial arrangement has been entered into, regard must be had to—

(a) the size or value of the arrangement and its purpose (including the extent to which it relates to the provision of the restricted children's service);

(b) the size or value of the arrangement relative to the amount of income the service provider receives from providing the restricted children's service;

(c) the proportion of the service provider's total income that comes from providing the restricted children's service;

(d) the well-being of children who receive care and support (in the provision of the restricted children's service).

(3) For the purposes of section 9(7)(e) and this section—

(a) "entering into a financial arrangement" includes but is not limited to making a payment or awarding any benefit (direct or indirect) that has monetary value (and references to a financial arrangement are to be read as including a series of arrangements);

(b) "relevant person" means any of the following—

(i) an employee, worker or officer of the service provider;

(ii) a person connected to an employee, worker or officer of the service provider;

(iii) where the service provider is part of a group of persons under common ownership or common control, any person within that group.

9B Financial arrangements relating to restricted children's services: supplementary provision

(1) In section 9A(3)(b)—

(a) "employee" and "worker" have the meanings given by section 230 of the Employment Rights Act 1996 (c. 18);

(b) an "officer" means—

(i) any director, manager, secretary or other similar officer of the service provider (and, in relation to a service provider whose affairs are managed by its members, "director" means a member of the service provider);

(ii) any other person having the general control and management of the service provider,

and, where the service provider is a charity, this includes any charity trustee within the meaning of the Charities Acts.

(2) For the purposes of section 9A(3)(b), the following are connected to an employee, worker or officer of the service provider—

(a) their child, parent, grandchild, grandparent, brother or sister;

(b) their spouse or civil partner;

(c) a person carrying on business in partnership with them or with any person falling within paragraph (a) or (b);

(d) an institution which is controlled—

(i) by them or by any person falling within paragraph (a), (b) or (c), or

(ii) by two or more persons falling within sub-paragraph (i), when taken together;

(e) a body corporate in which—

(i) the person or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or

(ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.

(3) In subsection (2)—

(a) "child" includes a stepchild;

(b) where two people are not married to, or civil partners of, each other but live together as if they were a married couple or civil partners, each of them is to be treated as the spouse or civil partner of the other;

(c) "institution" has the meaning given by section 9(3) of the Charities Act 2011 and a person controls an institution if the person is able, directly or indirectly, to secure that the affairs of the institution are conducted in accordance with the person's wishes;

(d) references to having a "substantial interest in a body corporate" have the meaning given by section 352 of the Charities Act 2011.

(4) For the purposes of section 9A(3)(b)(iii), a group of persons is to be treated as being under common control if the group—

(a) is a group of interconnected bodies corporate,

(b) consists of bodies corporate of which one and the same person or group of persons has control, or

(c) consists of one or more bodies corporate and a person who, or a group of persons which, has control of that or those bodies corporate.

(5) In subsection (4), a "group of interconnected bodies corporate" means a group consisting of two or more bodies corporate all of which are interconnected with each other.

(6) For the purposes of subsection (5), any two bodies corporate are interconnected if—

(a) one of them is a body corporate of which the other is a subsidiary, or

(b) both of them are subsidiaries of one and the same body corporate (and "interconnected bodies corporate" is to be construed accordingly).

(7) For the purposes of subsection (4)(b) and (c), a person or group of persons controls a body corporate if the person or group of persons is able, directly or indirectly, to secure that the affairs of the body corporate are conducted in accordance with the wishes of the person or group of persons.

(8) In this section—

"the Charities Acts" ("*y Deddfau Elusennau*") means the Charities Act 2011 (c. 25), the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) and the Charities Act (Northern Ireland) 2008 (c. 12);

"person" ("*person*") includes a body corporate, a partnership and an unincorporated association;

"subsidiary" ("*is-gorff*") has the meaning given by section 1159 of the Companies Act 2006 (c. 46)."

7 Providers of restricted children's services: information contained in annual return

In the 2016 Act, in section 10—

(a) in subsection (2)(a), after paragraph (viii) insert—

"(viiia) such information about evidence relevant to the fit and proper person test as may be prescribed;";

(b) after subsection (2) insert—

"(2A) In the case of a service provider, other than a local authority, that provides a restricted children's service, a return must also contain such information as may be prescribed to satisfy the Welsh Ministers that the provider meets the requirement in section 6A(1).

(2B) But subsection (2A) does not apply in respect of a provider to which section 6A does not apply by virtue of paragraph 2(4) of Schedule 1A.";

(c) in subsection (6)—

(i) in paragraph (b), at the end omit "or";

(ii) after paragraph (b) insert—

"(ba) the first regulations made under subsection (2)(a)(viiia),";

(iii) in paragraph (c), at the end insert "or";

(iv) after paragraph (c) insert—

"(d) the first regulations made under subsection (2A),".

8 Variation or cancellation of registration as a provider of a restricted children's service

(1) The 2016 Act is amended as follows.

(2) In section 11, after subsection (3) insert—

"(4) In the case of an application under subsection (1)(a)(i) to provide a restricted children's service, the application must also contain such information as may be prescribed to satisfy the Welsh Ministers that the service provider meets the requirement in section 6A(1)".

(3) In section 12—

(a) in subsection (1), for "subsection (2)" substitute "subsections (1A) and (2)";

(b) after subsection (1) insert—

"(1A) In the case of an application under section 11(1)(a)(i) to provide a restricted children's service, the Welsh Ministers may only grant an application if they are satisfied that the service provider meets the requirement in section 6A(1)."

(4) In section 13, in subsection (3)—

(a) at the end of paragraph (a) omit "or"

(b) at the end of paragraph (b) insert ", or";

(c) after paragraph (b) insert—

"(c) where the service is a restricted children's service, the service provider does not meet the requirement in section 6A(1)."

(5) In section 13, after subsection (3) insert—

"(3A) See also paragraph 3(4)(a) of Schedule 1A, in respect of variation of a service provider's registration to remove a restricted children's service during the transitional period defined in that Schedule."

(6) In section 15—

(a) in subsection (1), after paragraph (f) insert—";

(g) each of the services that the service provider is registered in respect of is a restricted children's service and the service provider does not meet the requirement in section 6A(1)";

(b) after subsection (1) insert—

"(1A) See also paragraph 3(4)(b) of Schedule 1A, in respect of cancellation of the registration of a service provider in respect of a restricted children's service during the transitional period defined in that Schedule."

9 Restricted children's services: information contained in the register of service providers

In the 2016 Act, in section 38—

(a) in subsection (2)—

(i) after paragraph (a) insert—

"(aa) whether any of those services is a restricted children's service;";

(ii) after paragraph (d) insert—

"(da) in the case of a provider of a restricted children's service—

(i) that the provider's registration in respect of that service is subject to the requirement in section 6A(1), and

(ii) that the condition in section 7(3)(aa) is imposed on the provider's registration in respect of that service;";

(b) after subsection (2) insert—

(2A) See also Schedule 1A, in respect of the registration of a provider of a restricted children's service that is not subject to the requirement in section 6A(1) during the transitional period defined in that Schedule."

Local authority functions in respect of accommodation for looked after children

10 Local authority duty to secure sufficient accommodation

(1) The 2014 Act is amended as follows.

(2) Section 75 is amended as is set out in subsections (3) to (6).

(3) In subsection (1)—

(a) for "steps that secure, so far as reasonably practicable," substitute "all reasonable steps to secure";

(b) in paragraph (a)—

(i) after "within" insert ", or is near to,";

(ii) at the end, omit "and";

(c) after paragraph (a) insert—

"(aa) in the case of accommodation with a local authority foster parent, is accommodation with a foster parent who is authorised as such by a person described in section 81A(4)(a),

(ab) in the case of accommodation in a children's home, is accommodation in a children's home in respect of which a person described in section 81A(4)(b) is registered, and".

(4) In subsection (2), in paragraph (c), for "in" substitute "within, or is near to,".

(5) In subsection (3), for the words from "having" to the end substitute "there being a range of accommodation that—

(a) is within, or is near to, the authority's area, and

(b) is capable of meeting the differing needs of the children mentioned in subsection (2)."

(6) In subsection (4), for the words from "accommodation providers" to the end substitute "and in section 75A, "children's home" means a place in Wales at which a children's home service (within the meaning of section 2A(2) of the Regulation and Inspection of Social Care (Wales) Act 2016) is provided.".

(7) In section 197(1), in the definition of "children's home", in paragraph (b), at the beginning insert "except in sections 75 and 75A,".

11 Duty to prepare and publish an annual sufficiency plan

In the 2014 Act, after section 75 insert—

"75A Duty to secure accommodation: preparation and publication of annual sufficiency plan

(1) Before the beginning of each financial year a local authority must prepare and publish a plan (an "annual sufficiency plan") setting out the steps it will take in that year in pursuance of its duty under section 75(1).

(2) An annual sufficiency plan must—

(a) be in such form as may be prescribed by regulations, and

(b) be approved by the Welsh Ministers before publication (see sections 75B and 75C).

(3) An annual sufficiency plan must include, in relation to the financial year to which it relates—

(a) the number of children the local authority estimates—

(i) that it will be looking after, and

(ii) in respect of whom it will be unlikely to be able to make arrangements under section 81(2);

(b) an assessment of the amount of accommodation provided by local authority foster parents and children's homes that will be available to the local authority for the purpose of placing children described in paragraph (a) in accordance with section 81A(2);

(c) an assessment of the extent to which that accommodation meets the requirements of paragraphs (a) to (b) of section 75(1);

(d) in relation to applications the local authority anticipates making for approval of supplementary placements in accordance with section 81B—

(i) an estimate of the number of applications anticipated,

(ii) the reasons why that number of applications is likely to be made,

(iii) information to be prescribed in regulations about for-profit providers who provide accommodation in Wales and who are likely to be named in those applications, and

(iv) information to be prescribed in regulations about private providers who provide accommodation in England and who are likely to be named in those applications;

(e) information about how steps to be taken by the local authority are intended to ensure that the authority has sufficient accommodation that meets the requirements of paragraphs (a) to (b) of section 75(1);

(f) such other information as may be prescribed by regulations.

(4) For the purposes of subsection 3(d)(iii) and section 81B, a "for-profit provider" means—

(a) in relation to accommodation provided by local authority foster parents, a service provider that does not fall within the descriptions given in section 81A(4)(a);

(b) in relation to accommodation provided by a children's home, a service provider that does not fall within the descriptions given in section 81A(4)(b).

(5) For the purposes of subsection 3(d)(iv) and section 81B, a "private provider" means—

(a) in relation to accommodation provided by local authority foster parents, a person in England that is registered in respect of a fostering agency under Part 2 of the Care Standards Act 2000;

(b) in relation to accommodation provided by a children's home, a person, other than a local authority, that is registered in respect of the children's home under Part 2 of the Care Standards Act 2000.

(6) In this section and section 81A, "service provider" has the meaning given by section 3(1)(c) of the Regulation and Inspection of Social Care (Wales) Act 2016.

75B Duty to secure accommodation: procedure for approval of sufficiency plan

(1) Before publishing its annual sufficiency plan, a local authority must—

(a) prepare a draft of the plan, and

(b) submit the draft to the Welsh Ministers for their approval.

(2) The first draft plan must be submitted to the Welsh Ministers no later than 4 months before the beginning of the financial year to which it relates.

(3) Subsequent draft plans must be submitted to the Welsh Ministers no later than 2 months before the beginning of the financial year to which they relate.

(4) Where the Welsh Ministers approve a draft of an annual sufficiency plan they must notify the local authority of their decision.

75C Duty to secure accommodation: procedure if draft plan not approved by Welsh Ministers

(1) This section applies if the Welsh Ministers decide not to approve a draft of an annual sufficiency plan submitted to them by a local authority under section 75B.

(2) The Welsh Ministers must notify the local authority setting out—

(a) the reasons for the decision;

(b) the period before the end of which the local authority must submit a further draft of the plan to the Welsh Ministers.

(3) The local authority must submit a further draft of the plan together with a report explaining how, in preparing the draft, the local authority has taken account of the reasons set out in the notice given under subsection (2).

(4) Section 75B(4) applies where the Welsh Ministers approve a further draft submitted to them under this section as it applies where the Welsh Ministers approve a draft submitted to them under section 75B.

(5) Subsections (2) and (3) apply where the Welsh Ministers decide not to approve a further draft submitted to them under this section as they apply where the Welsh Ministers decide not to approve a draft submitted to them under section 75B."

12 Duty to secure accommodation: reporting

In the 2014 Act, after section 75C (as inserted by section 11) insert—

"75D Duty to secure accommodation: reporting

In relation to each financial year for which an annual sufficiency plan has been made under section 75A, an annual report prepared by a local authority under section 144A must set out—

(a) how steps taken by the local authority in that financial year have increased (or are expected to increase) the amount of accommodation available to the authority that meets the requirements of paragraphs (a) to (b) of section 75(1);

(b) the number of applications the local authority made in that financial year for approval to place children in a supplementary placement in accordance with section 81B;

(c) the reasons for any difference between the number of applications provided under paragraph (b) and the number of applications the local authority had estimated under section 75A(3)(d)(i) it would make during the year."

13 Ways in which looked after children are to be accommodated

(1) The 2014 Act is amended as follows.

(2) In section 81—

(a) in subsection (2), for "subsections (4) and (11)" substitute "subsection (4) and section 81C(1) and (2)";

(b) in subsection (5), for the words from "place" to the end substitute "make arrangements for C in accordance with section 81A(2), but this is subject to section 81C(1) and (2)";

(c) omit subsections (6) to (13).

(3) After section 81 insert—

"81A Ways in which looked after children are to be accommodated and maintained: placements

(1) This section applies where a local authority is required, by virtue of section 81(5), to place a child whom it is looking after ("C") in accommodation.

(2) Where this section applies, subject to subsection (4) the local authority must place C in the placement that is, in its opinion, the most appropriate placement available.

(3) In subsection (2), "placement" means—

(a) placement with an individual who is a relative, friend or other person connected with C and who is also a local authority foster parent,

(b) placement with a local authority foster parent who does not fall within paragraph (a),

(c) placement in a children's home, or

(d) subject to section 82, placement in accordance with other arrangements that comply with any regulations made for the purposes of this section.

(4) Unless it would not be consistent with the local authority's duties under section 78, having regard to the matters referred to in subsection (5)(a), the authority must ensure that—

(a) if it places C in a placement falling within paragraph (b) of subsection (3), the placement is with a local authority foster parent who is authorised as such by—

(i) the local authority,

(ii) a different local authority, or

(iii) a service provider that is registered subject to the requirement in section 6A(1) of the Regulation and Inspection of Social Care (Wales) Act 2016;

(b) if it places C in a placement falling within paragraph (c) of subsection (3), the placement is in a children's home in respect of which one of the following persons is registered—

(i) the local authority,

(ii) a different local authority, or

(iii) a service provider that is registered subject to the requirement in section 6A(1) of the Regulation and Inspection of Social Care (Wales) Act 2016.

(5) In determining the most appropriate placement for C under subsection (2), the local authority must, subject to the other provisions of this Part, in particular to its duties under section 78—

(a) have regard to whether—

(i) C would be provided with accommodation within the authority's area or would otherwise be allowed to live near C's home;

(ii) C's education or training would be disrupted;

(iii) if C has a sibling for whom the local authority is also providing accommodation, C and the sibling would be able to live together;

(iv) if C is disabled, the accommodation provided is suitable to C's particular needs;

(v) if C is already accommodated in a placement in accordance with subsection (2), C would be disrupted by moving to another placement;

(b) give preference to a placement falling within paragraph (a) of subsection (3) over placements falling within the other paragraphs of that subsection.

(6) In subsection (4)(a) and (b), the reference to a different local authority includes a local authority in England.

(7) A code issued by the Welsh Ministers in accordance with section 145 must include provision on the exercise of a local authority's functions under this section.

81B Ways in which looked after children are to be accommodated and maintained: application for approval of a supplementary placement

(1) This section applies where—

(a) a local authority is required to place a child whom it is looking after ("C") in the most appropriate placement available in accordance with section 81A(2),

(b) in the opinion of the local authority, the most appropriate placement available is a placement falling within paragraph (b) or (c) of section 81A(3), and

(c) the local authority is unable to comply with the relevant requirement in section 81A(4) in respect of that placement.

(2) The local authority must apply to the Welsh Ministers for approval of the placement.

(3) An application under subsection (2) must include—

(a) the name of the for-profit provider or private provider (as applicable),

(b) the terms of the placement (including terms as to payment),

(c) a statement setting out the reasons why the authority considers that it would be acting inconsistently with its duty under section 78 were it not to place C with the for-profit provider or private provider,

(d) information about how any requirements relating to the exercise of the local authority's functions under section 81A in the code issued by the Welsh Ministers in accordance with section 145 have been complied with, and

(e) such other information as the Welsh Ministers may prescribe in regulations.

(4) The Welsh Ministers must approve the placement if they are satisfied—

(a) that the application made under subsection (2) meets the requirements of subsection (3),

(b) in the case of a placement falling within paragraph (b) of section 81A(3), that there is no alternative placement—

(i) that is as appropriate, and

(ii) that meets the condition in section 81A(4)(a),

(c) in the case of a placement falling within paragraph (c) of section 81A(3), that there is no alternative placement—

(i) that is as appropriate, and

(ii) that meets the condition in section 81A(4)(b), and

(d) the placement is reasonable in all the circumstances.

(5) But if they decide they are not satisfied in accordance with subsection (4), the Welsh Ministers must—

(a) notify the local authority,

(b) give the authority written reasons for that decision, and

(c) direct the local authority to reconsider, taking those reasons and any other information specified in the direction into account in doing so.

(6) If the local authority continues to be of the opinion, after reconsidering in accordance with the direction, that the placement is the most appropriate placement for C, it must make a further application to the Welsh Ministers for approval of the placement.

(7) Subsections (3) to (6) apply to a further application for approval as they apply to a first application for approval, except that a further application for approval must include a statement from the local authority setting out—

(a) how the authority took the Welsh Ministers' reasons for not being satisfied in accordance with subsection (4) into account when reconsidering the most appropriate placement for C, and

(b) the reasons why the authority continues to be of the opinion that the placement is the most appropriate placement for C.

(8) A placement approved by the Welsh Ministers under this section is referred to as a "supplementary placement".

81C Ways in which looked after children are to be accommodated and maintained: prospective adopters

(1) Subsection (2) applies where—

(a) a local authority is looking after a child ("C"),

(b) the local authority is satisfied that C ought to be placed for adoption and proposes to place C for adoption with a particular prospective adopter ("A"),

(c) an adoption agency has determined that A is suitable to adopt a child, and

(d) the local authority is not authorised to place C for adoption.

(2) The local authority must place C with A, unless in its opinion it would be more appropriate—

(a) to make arrangements for C to live with a person falling within section 81(3), or

(b) to place C in a placement of a description mentioned in section 81A(3).

(3) For the purposes of subsection (1)—

(a) "adoption agency" has the meaning given by section 2 of the Adoption and Children Act 2002;

(b) a local authority is authorised to place C for adoption only if it has been authorised to do so under—

(i) section 19 of that Act (placing children with parental consent), or

(ii) a placement order made under section 21 of that Act.

81D Ways in which looked after children are to be accommodated and maintained: power to determine terms of accommodation arrangements

(1) Subsection (2) applies where a local authority is looking after a child ("C").

(2) The local authority may determine—

(a) the terms of any arrangements it makes under section 81(2) in relation to a child (including terms as to payment), and

(b) the terms on which it places C with a local authority foster parent under section 81A(2) or with a prospective adopter under section 81C(2) (including terms as to payment but subject to any order made under section 49 of the Children Act 2004)."

CHAPTER 2

MISCELLANEOUS AMENDMENTS IN RELATION TO SOCIAL CARE SERVICES, SOCIAL CARE WORKERS AND LOCAL AUTHORITY SOCIAL CARE FUNCTIONS

Regulation of social care services: registration etc. of social care services providers

14 Duty to submit and publish annual return

(1) Subsections (2) and (3) amend the 2016 Act—

(a) to change the requirement in section 10, for the Welsh Ministers to publish an annual return submitted by a service provider, to a requirement that the service provider must publish such a return and make copies of it available on request, and

(b) to make failure to publish an annual return an offence.

(2) In section 10 of the 2016 Act—

(a) in subsection (1), for the words from "submit" to the end substitute ", following the end of each financial year during which the provider is registered—

(a) submit an annual return to the Welsh Ministers;

(b) publish that return on its website.";

(b) after subsection (1) insert—

"(1A) A service provider must make available, on request, a copy of an annual return published on its website."

(c) after subsection (4) insert—

"(4A) An annual return must be published within the prescribed time limit.

(4B) But if disclosure of information contained in the annual return is prohibited by any enactment or other rule of law, that information must be redacted from the annual return before it is published.";

(d) omit subsection (5).

(3) In section 48 of the 2016 Act—

(a) in the heading, after "submit" insert "or publish";

(b) for the words from "fail" to the end substitute "—

(a) fail to submit an annual return to the Welsh Ministers within the time limit prescribed under section 10(4), or

(b) fail to publish an annual return on its website within the time limit prescribed under section 10(4A)."

15 Application for cancellation of service provider's registration: information to be provided

(1) Subsection (2) amends the 2016 Act to confer a power on the Welsh Ministers to prescribe the information that is to be provided with an application a service provider makes to cancel the provider's registration under the Act.

(2) In section 14 of the 2016 Act, after subsection (1) insert—

"(1A) An application under subsection (1) must—

(a) contain such information as the Welsh Ministers may prescribe;

(b) be in the prescribed form."

16 Cancellation and variation of service provider's registration without application: notice procedures

(1) Subsections (2) and (3) amend the 2016 Act to apply the notice of proposal procedure (see section 18 of that Act), rather than the improvement notice procedure (see section 16 of that Act), to the variation or cancellation of a service provider's registration by the Welsh Ministers in certain circumstances where no improvement is possible.

(2) In section 13 of the 2016 Act—

(a) omit subsection (2);

(b) in subsection (4), after paragraph (b) insert—

"(ba) the responsible individual designated in respect of that place, or any other person, has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider at, from or in relation to that place,";

(c) after subsection (4) insert—

"(4A) For the purposes of subsection (4)(ba) a relevant offence is an offence listed in section 15(2)."

(d) in subsection (5), for the words from "subsection (3)" to the end substitute "this section unless—

(a) in the case of variation under subsection (1), (3)(a) or (4)(a), the requirements of sections 18 and 19 are met;

(b) in the case of variation under subsection (3)(b), (4)(b), (ba) or (c), the requirements of sections 16 and 17 are met.";

(e) after subsection (5) insert—

"(6) But nothing in subsection (5) affects the power of the Welsh Ministers to urgently vary a registration under section 23."

(3) In section 15 of the 2016 Act—

(a) in subsection (1)—

(i) after paragraph (b) insert—

"(ba) the service provider has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service that they provide;";

(ii) in paragraph (d), for "the service provider or a responsible individual" substitute "a responsible individual other than the service provider (see section 21(2)(a))";

(b) in subsection (2), for "subsection (1)(d)" substitute "subsection (1)(ba), (d)";

(c) in subsection (3), for the words from "the requirements" to the end substitute "—

(a) in the case of cancellation on the grounds set out in subsection (1)(a), (b) or (ba), the requirements of sections 18 and 19 are met;

(b) in the case of cancellation on the grounds set out in subsection (1)(c), (d), (e) or (f), the requirements of sections 16 and 17 are met.";

(d) after subsection (3) insert—

"(4) But nothing in subsection (3) affects the power of the Welsh Ministers to urgently cancel a registration under section 23."

Regulation of social care services: information, inspections and investigations

17 Information, inspection and investigations

(1) This section amends Chapter 3 of the 2016 Act to make further provision in relation to the Welsh Ministers' powers to carry out inspections and to require information to be provided, including in respect of investigating offences.

(2) In section 32 of the 2016 Act—

(a) in subsection (1)—

(i) for "The Welsh Ministers may require a relevant person to provide them with any" substitute "Subsections (1A) and (1B) apply where the Welsh Ministers consider that a relevant person may have";

(ii) after "think" insert "it";

(b) after subsection (1) insert—

"(1A) Where this subsection applies, the Welsh Ministers may give a notice to a relevant person requiring that person—

(a) to produce any documents which—

(i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and

(ii) are in the person's custody or under the person's control, and

(b) to produce the documents in a manner specified in the notice.

(1B) Where this subsection applies, the Welsh Ministers may give a notice to a relevant person requiring that person—

(a) to answer any question—

(i) which is asked in the notice, and

(ii) the answer to which is known to the person, and

(b) to answer in a manner specified in the notice."

(c) in subsection (2), for the words from "disclosure" to the end substitute " —

(a) disclosure of that information is prohibited by any enactment or other rule of law;

(b) the person would be entitled to refuse to disclose the information in proceedings in the High Court on grounds of legal professional privilege."

(d) after subsection (4) insert—

"(5) Where the Welsh Ministers require a person to provide information as they suspect an offence is being or has been committed—

(a) they may only require the information to be provided if they have reasonable grounds for their suspicion;

(b) they must inform the person, in writing, of the purpose for which they are requiring the information to be provided.

(6) In this section references to a "service provider" include a person who the Welsh Ministers reasonably suspect—

(a) is providing a regulated service at a place in respect of which that person is not registered under section 7, or

(b) has provided a regulated service at a place in respect of which that person was not registered under section 7."

(3) After section 32 insert—

"32A Privilege against self-incrimination

(1) Information given by a person ("P") in response to a notice given under section 32(1B) may not be used in criminal proceedings against P.

(2) But subsection (1) does not apply—

(a) if the proceedings are for an offence under section 5 of the Perjury Act 1911 (c. 6) (false statements made otherwise than on oath);

(b) if, in the proceedings—

(i) evidence relating to the information is adduced by or on behalf of P, or

(ii) a question relating to it is asked by or on behalf of P."

(4) In section 33—

(a) in subsection (1)(b), for "and" substitute ", management or";

(b) after subsection (1) insert—

"(1A) In this Part a reference to an "investigation" is a reference to an investigation into whether a person is committing or has committed an offence under this Part.";

(c) in subsection (2), at the end, insert "or an investigation".

(5) In section 34—

(a) in subsection (1)—

(i) after "inspection" insert "or an investigation";

(ii) omit "and inspect";

(b) in subsection (2), omit "and inspect";

(c) in subsection (3), after "inspection" insert "or an investigation";

(d) in subsection (4), at the beginning insert "When carrying out an inspection or an investigation,".

(6) In section 35—

(a) in subsection (1)—

(i) after "inspection" insert "or an investigation";

(ii) omit "in private".

(b) after subsection (1) insert—

"(1A) An inspector may require an interview under subsection (1) to be carried out in private.";

(c) in subsection (2), for the words "may" to the end substitute " —

(a) may not interview a person falling within subsection (3) without the person's consent, and

(b) may not interview a person ("P") for the purpose of inquiring whether P has committed an offence unless—

(i) P is informed of the purpose of the interview;

(ii) P is given the opportunity to obtain legal representation."

(d) in subsection (4), after "may" insert "for the purposes of carrying out an inspection".

(7) In section 36—

(a) in subsection (2), after "must" insert ", to the extent that the Welsh Ministers consider proportionate,";

(b) after subsection (3) insert—

"(3A) But a requirement in subsection (3) does not apply where the Welsh Ministers consider that fulfilling the requirement would be inappropriate having regard to the best interests of a person whose care and support is assessed in the report."

Social care workers: registration and fitness to practise

18 Meaning of social care worker: childcare workers

(1) Subsection (2) amends the 2016 Act to add, to the list of persons that the Welsh Ministers can except or include in the definition of "social care worker" for the purposes of the Act, people who provide supervision to children (but may or may not provide care and support as part of their role).

(2) In section 79 of the 2016 Act—

(a) in subsection (3)—

(i) in paragraphs (e) and (f), for "care and support to any person in Wales", substitute "—

(i) care and support;

(ii) childcare,

to any person in Wales";

(ii) after paragraph (l) insert—";

(m) a person employed to provide childcare by a person registered under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) as a provider of day care for children";

(b) after subsection (3) insert—

"(3A) In subsection (3), "childcare" means care and supervision that is provided for children."

19 Fitness to practise cases: powers to extend interim orders

(1) Subsection (2) amends the 2016 Act to give a panel hearing interim order proceedings the power to extend an interim order.

(2) In section 147 of the 2016 Act—

(a) in subsection (1), after paragraph (e) insert—";

(f) in the case of an interim order that has not been extended by the tribunal under section 148, extend the interim order.";

(b) after subsection (2), insert—

"(2A) A panel may make a decision specified in subsection (1)(f) only if—

(a) the panel is satisfied that the decision meets one or more of the conditions referred to in paragraphs (a) to (c) of subsection (2), and

(b) the extension does not result in the interim order having effect for a period of more than 18 months.";

(c) in subsection (3), after "extended" insert "by a panel under subsection (1)(f) or by the tribunal";

(d) in subsection (4), after paragraph (a)(i) insert—

"(ia) an interim order as extended or further extended by a panel;";

(e) after subsection (4) insert—

"(5) But subsection (4)(a)(i) and (b)(i) do not apply in relation to the reference to an interim order in subsection (1)(f)."

Local authority social services functions

20 Direct payments in social care

(1) Subsection (2) amends the 2014 Act to supplement the ways in which a local authority can make payments directly to a person, towards the cost of meeting a person's needs for care and support under sections 35 to 40, 42 and 45 of that Act, or in respect of after-care services under section 117 of the Mental Health Act 1983 (c. 20), by providing that such payments can be made to a person nominated by the person to whom the payment could otherwise have been made.

(2) The 2014 Act is amended as follows—

(a) after the cross heading that precedes section 50 insert—

"49A Direct payments

(1) Regulations may require or allow a local authority to make payments to a person towards the cost of meeting the needs of—

(a) an adult ("A"), under section 35 or 36;

(b) a child ("C"), under section 37, 38 or 39;

(c) a carer ("R"), under section 40, 42 or 45.

(2) But regulations under subsection (1) may not require or allow such payments to be made unless—

(a) where the payments are to be made to meet an adult's needs under section 35 or 36, condition 1, 2 or 3 in section 50 is met;

(b) where the payments are to be made to meet a child's needs under section 37, 38 or 39, condition 1 or 2 in section 51 is met;

(c) where the payments are to be made to meet a carer's needs under section 40, 42 or 45, condition 1 or 2 in section 52 is met.

(3) A payment under this section is referred to in this Act as a "direct payment".";

(b) for sections 50 to 52 substitute—

"50 Direct payments: conditions for payment to meet an adult's needs

(1) The conditions referred to in section 49A(2)(a) in relation to making direct payments towards the cost of meeting the needs of an adult ("A") under section 35 or 36 are as follows.

(2) Condition 1 is that—

(a) the payments are to be made to A,

(b) the local authority believes that A has capacity to consent to the making of the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of meeting A's needs, and

(ii) A is capable of managing the payments (either by themselves or with the support that is available to them), and

(d) A has consented to the making of the payments.

(3) Condition 2 is that—

(a) the payments are to be made to a person other than A ("B"),

(b) the local authority believes that A does not have capacity to consent to the making of the payments,

(c) B is a suitable person,

(d) the local authority is satisfied that—

(i) making the payments is an appropriate way of meeting A's needs,

(ii) B is capable of managing the payments (either by themselves or with the support that is available to them), and

(iii) B will act in A's best interests in managing the payments, and

(e) the necessary consent has been obtained to make the payments to B.

(4) Condition 3 is that—

(a) the payments are to be made to a person who is nominated by A ("N"),

(b) the local authority believes that A has capacity to consent to the making of the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of meeting A's needs, and

(ii) N is capable of managing the payments (either by themselves or with the support that is available to them),

(d) A has consented to the making of the payments, and

(e) N has consented to receive the payments.

(5) For the purposes of subsection (3)(c), B is a "suitable person"—

(a) if B is authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to make decisions about A's needs for care and support,

(b) where B is not authorised as mentioned in paragraph (a), if a person who is so authorised agrees with the local authority that B is suitable to receive payments towards the cost of meeting A's needs for care and support, or

(c) where B is not authorised as mentioned in paragraph (a) and there is no person who is so authorised, if the local authority considers that B is suitable to receive payments of that kind.

(6) For the purposes of subsection (3)(e), the "necessary consent" means—

(a) the consent of B, and

(b) where B is a suitable person by virtue of subsection (5)(b), the consent of a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to make decisions about A's needs for care and support.

51 Direct payments: conditions for payment to meet a child's needs

(1) The conditions referred to in section 49A(2)(b) in relation to making direct payments towards the cost of meeting the needs of a child ("C") under section 37, 38 or 39 are as follows.

(2) Condition 1 is that—

(a) the payments are to be made to a person ("P") who is—

(i) C, or

(ii) a person with parental responsibility for C,

(b) where P is—

(i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of the payments;

(ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to receive the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of meeting C's needs,

(ii) C's well-being will be safeguarded and promoted by the making of the payments, and

(iii) P is capable of managing the payments (either by themselves or with the support that is available to them), and

(d) P has consented to the making of the payments.

(3) Condition 2 is that—

(a) the payments are to be made to a person who is nominated by P ("N"),

(b) where P is—

(i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of the payments;

(ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to the making of the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of meeting C's needs,

(ii) the well-being of C will be safeguarded and promoted by the making of the payments,

(iii) N will act in C's best interests in managing the payments, and

(iv) N is capable of managing the payments (either by themselves or with the support that is available to them),

(d) P has consented to the making of the payments, and

(e) N has consented to receive the payments.

52 Direct payments: conditions for payment to meet a carer's needs

(1) The conditions referred to in section 49A(2)(c) in relation to making direct payments towards the cost of meeting the needs of a carer ("R") under section 40, 42 or 45 are as follows.

(2) Condition 1 is that—

(a) the payments are to be made to R,

(b) where R is—

(i) an adult or a child aged 16 or 17, the local authority believes that R has capacity to consent to the making of the payments;

(ii) a child aged under 16, the local authority is satisfied that R has sufficient understanding to make an informed decision about consenting to receive the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of meeting R's needs, and

(ii) R is capable of managing the payments (either by themselves or with the support that is available to them), and

(d) R has consented to the making of the payments.

(3) Condition 2 is that—

(a) the payments are to be made to a person who is nominated by R ("N"),

(b) where R is—

(i) an adult or a child aged 16 or 17, the local authority believes that R has capacity to consent to the making of the payments;

(ii) a child aged under 16, the local authority is satisfied that R has sufficient understanding to make an informed decision about consenting to the making of the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of meeting R's needs,

(ii) where R is a child aged under 16, N will act in R's best interests in managing the payments, and

(iii) N is capable of managing the payments (either by themselves or with the support that is available to them),

(d) R has consented to the making of the payments, and

(e) N has consented to receive the payments.";

(c) after section 53 insert—

"53A Direct payments: after-care under the Mental Health Act 1983

The ways in which a local authority may discharge its duty under section 117 of the Mental Health Act 1983 include by making direct payments, and for that purpose Schedule A1 has effect.";

(d) for Schedule A1 substitute—

"SCHEDULE A1
(as introduced by section 53A)

DIRECT PAYMENTS: AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983

General

1 Regulations may require or allow a local authority to make payments in respect of a person to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging for the provision of after-care services for the person under that section.

2 But regulations under paragraph 1 may not require or allow such payments to be made unless—

(a) where the payment is made in respect of an adult, condition 1, 2 or 3 in paragraph 4 is met;

(b) where the payment is made in respect of a child, condition 1 or 2 in paragraph 5 is met.

3 A payment under this Schedule is referred to in this Act as a "direct payment".

Direct payments: after-care services for an adult

4 (1) The conditions referred to in paragraph 2(a) in relation to making direct payments in respect of an adult ("A") to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging the provision of after-care services for A under that section are as follows.

(2) Condition 1 is that—

(a) the payments are to be made to A,

(b) the local authority believes that A has capacity to consent to the making of the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of discharging its duty towards A under section 117 of the Mental Health Act 1983, and

(ii) A is capable of managing the payments (either by themselves or with the support that is available to them), and

(d) A has consented to the making of the payments.

(3) Condition 2 is that—

(a) the payments are to be made to a person other than A ("B"),

(b) the local authority believes that A does not have capacity to consent to the making of the payments,

(c) B is a suitable person,

(d) the local authority is satisfied that—

(i) making the payments is an appropriate way of discharging its duty towards A under section 117 of the Mental Health Act 1983,

(ii) B is capable of managing the payments (either by themselves or with the support that is available to them), and

(iii) B will act in A's best interests in managing the payments, and

(e) the necessary consent has been obtained to make the payment to B.

(4) Condition 3 is that—

(a) the payments are to be made to a person who is nominated by A ("N"),

(b) the local authority believes that A has capacity to consent to the making of the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of discharging its duty towards A under section 117 of the Mental Health Act 1983, and

(ii) N is capable of managing the payments (either by themselves or with the support that is available to them),

(d) A has consented to the making of the payments, and

(e) N has consented to receive the payments.

(5) For the purposes of sub-paragraph (3)(c), B is a "suitable person"—

(a) if B is authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to make decisions about the provision to A of after-care services under section 117 of the Mental Health Act 1983,

(b) where B is not authorised as mentioned in paragraph (a), if a person who is so authorised agrees with the local authority that B is suitable to receive the payments, or

(c) where B is not authorised as mentioned in paragraph (a) and there is no person who is so authorised, if the local authority considers that B is suitable to receive payments of that kind.

(6) For the purposes of sub-paragraph (3)(e), the "necessary consent" means—

(a) the consent of B, and

(b) where B is a suitable person by virtue of sub-paragraph (5)(b), the consent of a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to make decisions about the provision to A of after-care services under section 117 of the Mental Health Act 1983.

Direct payments: after-care services for a child

5 (1) The conditions referred to in paragraph 2(b) in relation to making direct payments in respect of a child ("C") to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging the provision of after-care services for C under that section are as follows.

(2) Condition 1 is that—

(a) the payments are to be made to a person ("P") who is—

(i) C, or

(ii) a person with parental responsibility for C,

(b) where P is—

(i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of the payments;

(ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to receive the payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of discharging its duty towards C under section 117 of the Mental Health Act 1983,

(ii) C's well-being will be safeguarded and promoted by the making of the payments, and

(iii) P is capable of managing the payments (either by themselves or with the support that is available to them), and

(d) P has consented to the making of the payments.

(3) Condition 2 is that—

(a) the payments are to be made to a person who is nominated by P ("N"),

(b) where P is—

(i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of payments;

(ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to the making of payments,

(c) the local authority is satisfied that—

(i) making the payments is an appropriate way of discharging its duty towards C under section 117 of the Mental Health Act 1983,

(ii) the well-being of C will be safeguarded and promoted by the making of the payments,

(iii) N will act in C's best interests in managing the payments, and

(iv) N is capable of managing the payments (either by themselves or with the support that is available to them),

(d) P has consented to the making of the payments, and

(e) N has consented to receive the payments.

Further provision for direct payments: after-care

6 Regulations under this Schedule may also make provision (in particular) about the following—

(a) matters to which a local authority may or must have regard when making a decision of a specified type about direct payments;

(b) conditions that a local authority may or must attach, and conditions that it must not attach, in relation to direct payments;

(c) steps that a local authority may or must take before, or after, making a decision of a specified type about direct payments;

(d) support that a local authority must provide or arrange for persons to whom it makes direct payments;

(e) cases or circumstances in which a local authority may act as an agent on behalf of a person to whom direct payments are made;

(f) conditions subject to which, and the extent to which, a local authority's duty under section 117 of the Mental Health Act 1983 (after-care) is discharged by the making of direct payments;

(g) cases or circumstances in which a local authority must not, or is allowed not to, make payments to a person or in relation to a person;

(h) cases or circumstances in which a person who no longer lacks, or who the local authority believes no longer lacks, capacity to consent to the making of direct payments must or may nonetheless be treated for the purposes of paragraphs 4 and 5 as lacking capacity to do so;

(i) cases or circumstances in which a local authority making direct payments may or must review the making of those payments;

(j) cases or circumstances in which a local authority making direct payments may or must—

(i) terminate the making of those payments;

(ii) require the repayment of the whole or part of a direct payment;

(k) the recovery of any amount due to a local authority in connection with the making of direct payments.

7 Regulations under this Schedule must specify that direct payments to meet the cost of providing or arranging for the provision of after-care services under section 117 of the Mental Health Act 1983 (after-care) must be made at a rate that the local authority estimates to be equivalent to the reasonable cost of securing the provision of those services to meet those needs.

8 A person to whom a local authority makes a direct payment may, subject to regulations made under this Schedule, use the payment to purchase after-care services from any person (including, among others, the authority that made the payment)."

21 Accommodation of children

(1) Subsections (2) and (3) amend the 2014 Act to restrict—

(a) the ability of a person named in a child arrangements order to prevent someone with parental responsibility for a child without parents, or who is lost or abandoned, from objecting to the child being looked after in local authority accommodation or removing them from such accommodation;

(b) the requirement for a local authority to place a child who it is looking after with a person named in a child arrangements order,

to a person named in the child arrangements order as someone with whom the child is to live, but not any other person so named.

(2) In section 76(6) of the 2014 Act, for paragraph (a) substitute—

"(a) named in a child arrangements order (that is in force) as a person with whom the child is to live,".

(3) In section 81(3) of the 2014 Act, in paragraph (c), for the words from "a person" to the end substitute "named in the child arrangements order as a person with whom the child was to live".

Minor and consequential amendments

22 Social care: minor and consequential amendments

Schedule 1 makes minor and consequential amendments relating to the provisions in this Part.

PART 2

HEALTH CARE

23 Overview of Part 2

(1) Sections 24 and 25 make provision for and in connection with allowing payments to be made directly to a patient or a person nominated by the patients for the purpose of the patient securing services or goods that otherwise must or may be provided under the National Health Service (Wales) Act 2006 (c. 42) ("the 2006 Act") or under section 117 of the Mental Health Act 1983 (c. 20).

(2) Section 26 amends section 47 of the 2014 Act so as to provide that a local authority may only provide or arrange the provision of services or facilities that are required to be provided under certain health enactments if—

(a) providing the services or facilities would be incidental or ancillary to certain care and support services that the local authority may or must provide under the 2014 Act, and

(b) they are of a nature that the local authority can be expected to provide.

24 Direct payments for health care

(1) The 2006 Act is amended as follows.

(2) After section 10A insert—

"Direct payments for health care

10B Direct payments for health care

(1) The Welsh Ministers may, for the purpose of securing the provision to a patient of anything to which subsection (3) applies, make payments to the patient or to a person nominated by the patient.

(2) Subsection (1) is subject to any provision made by regulations under section 10C.

(3) This subsection applies to—

(a) anything that the Welsh Ministers may or must provide under section 2(1) or 3(1);

(b) anything for which the Welsh Ministers must arrange under paragraph 8 of Schedule 1;

(c) any vehicles that the Welsh Ministers may provide under paragraph 9 of Schedule 1;

(d) anything the Welsh Ministers may provide under paragraph 10 of Schedule 1 (including anything for which a grant may be made under paragraph 10(3) of Schedule 1).

(4) Payments may not be made under subsection (1) unless the patient consents to the making of the payments, subject to any provision made by regulations under section 10C in respect of a patient who lacks capacity or is a child.

(5) Where the Welsh Ministers make payments under subsection (1), they must, having regard to the purposes for which the payments are made, make arrangements for the provision to the patient, payee or their representative of such information, advice or other support, as the Welsh Ministers consider appropriate.

(6) Regulations may provide that a Local Health Board may, for the purpose of securing the provision to a patient of after-care services that a Local Health Board must provide under section 117 of the Mental Health Act 1983 (c. 20), make payments to the patient or to a person nominated by the patient.

(7) Regulations under subsection (6) must—

(a) provide that payments under the regulations cannot be made unless the patient consents to the making of the payments, subject to any provision made by regulations under section 10C in respect of a patient who lacks capacity or is a child;

(b) make provision in respect of information, advice or other support to be provided by a Local Health Board to patients, payees or their representatives in connection with the payments.

(8) In section 10C and section 10D, "direct payments" means payments made under subsection (1) or under regulations made under subsection (6).

(9) In this section and section 10C—

(a) "child" means a person who has not attained the age of 16;

(b) references to a person lacking capacity are references to a person lacking capacity within the meaning of the Mental Capacity Act 2005 (c. 9).

10C Regulations about direct payments

(1) Regulations may make provision about direct payments.

(2) The regulations may, in particular, make provision about—

(a) the circumstances in which, and descriptions of persons and services in respect of which, direct payments may, must or must not be made;

(b) the circumstances in which direct payments may, must or must not be made to a person nominated by the patient;

(c) the making of direct payments (and, in particular, as to persons to whom payments may or must be made) if the patient lacks capacity to consent to the making of the payments or is a child;

(d) matters to which the Welsh Ministers or a Local Health Board may or must have regard when making a decision about direct payments;

(e) conditions that the Welsh Ministers or a Local Health Board may, must or must not attach in relation to direct payments;

(f) the steps that the Welsh Ministers or a Local Health Board may or must take before, or after, making a decision about direct payments;

(g) the conditions that the patient or (if different) the payee may or must be required to comply with before, after, or at the time when a direct payment is made;

(h) the amount of any direct payment or how it is to be calculated;

(i) the circumstances in which the Welsh Ministers or a Local Health Board may or must stop making direct payments;

(j) the circumstances in which the Welsh Ministers or a Local Health Board may or must require all or part of a direct payment to be repaid by the patient or (if different) the payee, or otherwise;

(k) the monitoring of the making of direct payments, of their use by the patient or (if different) the payee, or of services which they are used to secure;

(l) the review of decisions as to whether a direct payment should be made;

(m) the arrangements to be made by the Welsh Ministers or Local Health Board for providing patients, payees or their representatives with information, advice or other support in connection with direct payments;

(n) the extent to which such support is to be treated as a service in respect of which direct payments may be made.

(3) If the regulations make provision about persons who lack capacity to consent to the making of direct payments, the regulations may also make provision about the cases or circumstances where a person who has lacked that capacity but no longer does so (whether because of fluctuating capacity or regaining or gaining capacity).

(4) The regulations may provide for a sum that must be repaid to the Welsh Ministers or Local Health Board (as the case may be) by virtue of a condition or other requirement imposed by or under the regulations to be recoverable as a debt due to the Welsh Ministers or Local Health Board (as the case may be).

(5) The regulations may make provision—

(a) for a service in respect of which a direct payment has been made under section 10B(1) to be regarded as provided or arranged for by the Welsh Ministers under an enactment mentioned in section 10B(3), only to such extent and subject to such conditions as the regulations may specify;

(b) displacing functions or obligations of a Local Health Board with respect to the provision of after-care services under section 117 of the Mental Health Act 1983 (c. 20), only to such extent and subject to such conditions as the regulations may prescribe.

(6) In this section, "service" includes anything in respect of which direct payments may be made.

10D Arrangements with other bodies relating to direct payments

(1) The Welsh Ministers or a Local Health Board may arrange with any person or body to provide assistance in connection with direct payments.

(2) Arrangements may be made under subsection (1) with voluntary organisations.

(3) Powers under this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to the Welsh Ministers or the Local Health Board."

(3) In section 203(6A)—

(a) after "section 10A(1)," insert "section 10C(1) (direct payments),";

(b) after "section 82A (pharmaceutical needs assessments)" insert "or the first regulations under section 10B(6) (direct payments by Local Health Boards)".

25 Direct payments for health care: minor and consequential amendments

Schedule 2 makes minor and consequential amendments relating to direct payments for health care.

26 Provision of health services by local authorities

(1) The 2014 Act is amended as follows.

(2) In section 47(1)—

(a) the words from "doing so would be incidental" to the end become paragraph (a);

(b) at the end of that paragraph, insert ", and

(b) the service or the facility in question would be of a nature that the local authority could be expected to provide."

(3) In section 47(2)—

(a) the words from "doing so would be incidental" to the end become paragraph (a);

(b) at the end of that paragraph insert ", and

(b) the service or the facility in question would be of a nature that the local authority could be expected to provide."

PART 3

GENERAL

27 General interpretation

In this Act—

"the 2006 Act" ("*Deddf 2006*") means the National Health Service (Wales) Act 2006 (c. 42);

"the 2014 Act" ("*Deddf 2014*") means the Social Services and Well-being (Wales) Act 2014 (anaw 4);

"the 2016 Act" ("*Deddf 2016*") means the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).

28 Consequential and transitional provision etc.

(1) The Welsh Ministers may by regulations—

(a) make provision that is incidental or supplementary to, or consequential on, any provision of this Act;

(b) make transitional or saving provision in connection with any provision of this Act.

(2) Regulations under this section—

(a) may amend, modify, repeal or revoke any enactment, whenever enacted or made, including this Act;

(b) are to be made by statutory instrument.

(3) A statutory instrument containing regulations made under this section that amend, modify or repeal an enactment contained in primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.

(4) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru.

(5) In subsection (3), "primary legislation" means—

(a) an Act of Senedd Cymru;

(b) a Measure of the National Assembly for Wales;

(c) an Act of the Parliament of the United Kingdom.

29 Coming into force

(1) The following provisions come into force on the day after the day on which this Act receives Royal Assent—

(a) in Part 1—

(i) sections 1, 16, 21 and 22 (in so far as it relates to paragraph 3(b) of Schedule 1);

(ii) paragraphs 2(1) and (6), 3(b), 5(1) and (4), 7(1), (3), (4), (14) and (15) of Schedule 1;

(b) in Part 2, sections 23 and 26;

(c) this Part.

(2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.

(3) An order under subsection (2) may make transitional or saving provision.

30 Short title

The short title of this Act is the Health and Social Care (Wales) Act 2025.

SCHEDULE 1

(as introduced by section 22)

SOCIAL CARE: MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

PROVISION OF SOCIAL CARE SERVICES TO CHILDREN: MINOR AND CONSEQUENTIAL AMENDMENTS

Social Services and Well-being (Wales) Act 2014 (anaw 4)

1 (1) The 2014 Act is amended as follows.

(2) In section 82—

(a) in subsection (1), for "section 81(6)(d)" substitute "section 81A(3)(d)";

(b) in subsection (2), for "section 81(6)(d)" substitute "section 81A(3)(d)".

(3) In section 89—

(a) in the heading, for "section 81(6)(d)" substitute "section 81A(3)(d)";

(b) in subsection (1), for "section 81(6)(d)" substitute "section 81A(3)(d)".

(4) In section 92(2), for "section 81(11)" substitute "section 81C(2)".

(5) In section 94A(1)(a), for "section 81" substitute "sections 81 to 81D".

(6) In section 174(3)(e), for "section 81(11)" substitute "section 81C(2)".

(7) In section 186(4)(c), for "section 81" substitute "sections 81 to 81D".

(8) In section 197(1), in the appropriate places insert—

""for-profit provider" ("*darparwr er elw*") has the meaning given by section 75A(4);";

""private provider" ("*darparwr preifat*") has the meaning given by section 75A(5);".

Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)

2 (1) The 2016 Act is amended as follows.

(2) In section 13, in subsection (5), for paragraph (a) substitute—

"(a) in the case of variation—

(i) under subsection (1), (3)(a) or (c) or (4)(a), or

(ii) in accordance with paragraph 3(4)(a) of Schedule 1A,

the requirements of sections 18 and 19 are met;".

(3) In section 15, in subsection (3), for paragraph (a) substitute—

"(a) in the case of—

(i) cancellation on the grounds set out in subsection (1)(a), (b), (ba) or (g), or

(ii) cancellation in accordance with paragraph 3(4)(b) of Schedule 1A,

the requirements of sections 18 and 19 are met;".

(4) In section 64, in the appropriate places insert—

""children's home service" ("*gwasanaeth cartref plant*") has the meaning given by section 2A;";

""restricted children's service" ("*gwasanaeth plant o dan gyfyngiad*") has the meaning given by section 2A;".

(5) In section 187, in subsection (2)—

(a) after paragraph (c) insert—

"(ca) section 6A(3)(b) (regulations prescribing public goods to which a person's objects or purposes must primarily relate);";

(b) after paragraph (w) insert—

"(x) paragraphs 1(1)(b) and 3(1) of Schedule 1A (regulations in relation to transitional period for restricted children's services)."

(6) In Schedule 1—

(a) in paragraph 1(1)—

(i) for the words "at a place" substitute ",";

(ii) after the words "in Wales" omit ",";

(b) in paragraph 1(4), for the words "by a" to the end substitute "does not constitute a care home service if the accommodation and care is provided by—

(a) a person, other than a local authority, who has parental responsibility for the child;

(b) a relative of the child;

(c) a foster parent in relation to the child (but see also paragraph 5A(3) of Schedule 7 to the Children Act 1989 (c. 41).";

(c) for paragraph 1(6) substitute—

"(6) In sub-paragraph (4), "parental responsibility" has the meaning given by section 3 of the Children Act 1989 (c. 41)."

PART 2

MISCELLANEOUS AMENDMENTS IN RELATION TO SOCIAL CARE SERVICES ETC.: MINOR AND CONSEQUENTIAL AMENDMENTS

Mental Health Act 1983 (c. 20)

3 In the Mental Health Act 1983 (c.20), in section 117(2C)—

(a) in paragraph (a)(ii)—

(i) for "sections 50, 51 and 53 of" substitute "Schedule A1 to";

(ii) omit the words in parentheses;

(b) in paragraph (b), for the words from "be provided" to the end substitute "otherwise be provided under this section".

Safeguarding Vulnerable Groups Act 2006 (c. 47)

4 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.

(2) In section 6, after subsection (8G) (as inserted by paragraph 4(2) of Schedule 2) insert—

"(8H) A local authority does not make arrangements for another to engage in a regulated activity by virtue of anything the authority does under regulations under section 49A of, or Schedule A1 to, the Social Services and Well-being (Wales) Act 2014 (anaw 4);

(8I) A person (P) who is authorised as mentioned in subsection (5)(a) of section 50 of, or paragraph 4(5)(a) of Schedule A1 to, the Social Services and Well-being (Wales) Act 2014 does not make arrangements for another to engage in a regulated activity by virtue of anything that P does under subsection (5)(b) or (6)(b) of section 50 or paragraph 4(5)(b) or (6)(b) of Schedule A1."

(3) In section 30(8), for "sections 50 to 53 of" substitute "section 49A of, or Schedule A1 to,".

Social Services and Well-being (Wales) Act 2014 (anaw 4)

5 (1) The 2014 Act is amended as follows.

(2) In section 49(1)(a), for "sections 50 to 53" substitute "sections 49A to 53A".

(3) In section 53—

(a) for "50, 51 or 52" each time it appears, substitute "49A";

(b) in subsection (1)(k), for "50" substitute "49A";

(c) in subsection (7), for "51" substitute "49A(1)(b)";

(d) omit subsection (11).

(4) In section 124(9), in the Welsh language text, after "Nid yw'r adran hon yn gymwys" insert "—

(a) i awdurdod lleol sy'n lleoli plentyn mewn llety diogel yn yr Alban o dan adran 25 o Ddeddf Plant 1989, na

(b) ".

(5) In section 187(2), for "section 50 or 51" substitute "section 49A or Schedule A1".

(6) In section 189—

(a) in subsection (5)(a)(ii), for "section 50 or 52" substitute "section 49A(1)(a) or (c)";

(b) in subsection (7)(b), for "section 50 or 52" substitute "section 49A(1)(a) or (c)".

Criminal Justice and Courts Act 2015 (c. 2)

6 (1) The Criminal Justice and Courts Act 2015 is amended as follows.

(2) In section 21, in subsection (8), for paragraph (d) substitute—

"(d) Schedule A1 to the Social Services and Well-being (Wales) Act 2014 (anaw 4) (direct payments for after-care made by local authorities);

(e) regulations under section 49A of the Social Services and Well-being (Wales) Act 2014 (direct payments for care and support) where the payment is made towards the cost of meeting the needs of an adult or a carer who is an adult."

Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)

7 (1) The 2016 Act is amended as follows.

(2) In section 1, in paragraph (c), at the end insert "and investigations".

(3) In section 16, in subsection (1)—

(a) in paragraph (a), for "section 15" substitute "section 15(1)(c), (d), (e) or (f)";

(b) in paragraph (b), for "section 13(3) or (4)" substitute "section 13(3)(b) or (4)(b), (ba) or (c)".

(4) In section 18, in subsection (1)—

(a) at the end of paragraph (b) omit "or";

(b) in paragraph (c)(ii), for "section 13(3) or (4), 23(1)(b) or 25(2)(a)." substitute "section 13(3)(b) or (4)(b), (ba) or (c), 23(1)(b) or 25(2)(a), or";

(c) after paragraph (c) insert—

"(d) cancel the registration of a service provider other than under section 15(1)(c), (d), (e) and (f)."

(5) In the heading of Chapter 3, for the words "and inspections" substitute ", inspections and investigations".

(6) In the heading of section 33, after the word "inspections" insert ", investigations".

(7) In the heading of section 34, omit "and inspect".

(8) In the heading of section 50, at the end insert "and investigations".

(9) In section 144, in subsection (6), for the words "; see section 148 (extension of interim order by the tribunal)" substitute "by the tribunal under section 148".

(10) In section 146, in subsection (9), in paragraph (a) omit "by the tribunal".

(11) In section 149, in subsection (4)(a), for "by the tribunal" substitute "(whether by a panel or the tribunal)"

(12) In section 161, in subsection (6)(b), for "or vary" substitute ", vary or extend".

(13) In section 163, in subsection (1)(d), for "or varied" substitute ", varied or extended".

(14) In Schedule 2, in paragraph 15(3)(d), for "of the National Assembly" substitute "of Senedd Cymru".

(15) In the following provisions, in each place that it appears, for "the National Assembly for Wales" substitute "Senedd Cymru"—

(a) section 10(6);

(b) section 27(5);

(c) section 41(4);

(d) section 42(5);

(e) section 186(4), (5) and (6);

(f) section 187(2) and (3);

(g) Schedule 2, paragraphs 15(3)(d) and 16(4)(b).

Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413 (W. 131))

8 (1) The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 are amended as follows.

(2) Omit—

(a) regulation 2(5);

(b) regulation 253.

SCHEDULE 2

(as introduced by section 25)

DIRECT PAYMENTS FOR HEALTH CARE: MINOR AND CONSEQUENTIAL AMENDMENTS

Mental Health Act 1983 (c. 20)

1 (1) The Mental Health Act 1983 is amended as follows.

(2) In section 117(2C)—

(a) at the end of paragraph (a)(ii) omit "or";

(b) at the end of paragraph (a)(iii), for "and" substitute "or";

(c) after paragraph (a)(iii) insert—

"(iv) regulations under section 10B(6) of the National Health Service (Wales) Act 2006, and".

Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

2 (1) The Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.

(2) In section 2(5), after paragraph (aa) insert—

"(ab) in hospital accommodation in Wales or in England in respect of the provision of which direct payments are made under section 10B(1) of the National Health Service (Wales) Act 2006, or".

National Health Service (Wales) Act 2006 (c. 42)

3 (1) The National Health Service (Wales) Act 2006 is amended as follows.

(2) In section 184—

(a) in subsection (2)—

(i) in paragraph (b), after "local NHS bodies" insert ", direct payment service providers";

(ii) in paragraph (c), after "local NHS bodies" insert "or direct payment service providers";

(iii) in paragraph (d), after "local NHS bodies" insert "or direct payment service providers";

(iv) in paragraph (e), after "local NHS body" insert "or a direct payment service provider";

(v) in paragraph (f), after "local NHS body" insert "or a direct payment service provider";

(b) after subsection (3) insert—

"(3A) For the purposes of subsection (2) and section 186, "direct payment service provider" in relation to an overview and scrutiny committee of a local authority means a person who provides services to any person residing in the authority's area in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6)."

(3) In section 186(3)—

(a) at the end of paragraph (a) omit "or";

(b) after paragraph (a) insert—

"(ab) by adding any description or other provision in connection with a direct payment service provider or services provided by, or under arrangements made by, a direct payment service provider, or".

(4) In section 187—

(a) in subsection (2)—

(i) in paragraph (a), before "health service body" insert "direct payment service provider,";

(ii) in paragraph (ca), before "health service body" insert "direct payment service provider,";

(b) in subsection (3), in the appropriate place insert—

""direct payment service provider" means a person who provides services to any person in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6),".

(5) In section 207, in the appropriate place insert—

"direct payment service provider	section 187(3)"

Safeguarding Vulnerable Groups Act 2006 (c. 47)

4 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.

(2) In section 6, after subsection (8E) insert—

"(8F) The Welsh Ministers do not make arrangements for another to engage in a regulated activity by virtue of anything the Welsh Ministers do under section 10B, or under regulations under section 10C, of the National Health Service (Wales) Act 2006.

(8G) A Local Health Board does not make arrangements for another to engage in a regulated activity by virtue of anything it does under regulations under section 10B(6) of the National Health Services (Wales) Act 2006."

Criminal Justice and Courts Act 2015 (c. 2)

5 (1) The Criminal Justice and Courts Act 2015 is amended as follows.

(2) In section 21, in subsection (8), after paragraph (b) insert—

"(ba) section 10B of the National Health Service (Wales) Act 2006 (c. 42) (direct payments for health care);

(bb) regulations under section 10B(6) of the National Health Service (Wales) Act 2006 (direct payments for after-care made by Local Health Boards);".

Public Services Ombudsman (Wales) Act 2019 (anaw 3)

6 (1) The Public Services Ombudsman (Wales) Act 2019 is amended as follows.

(2) In section 1(5)—

(a) in paragraph (a), for "and palliative care providers" substitute ", palliative care providers and direct payment service providers";

(b) in paragraph (b), for "and palliative care" substitute ", palliative care and direct payment services";

(c) in paragraph (c), for "the social care and palliative care matters" substitute "the matters relating to social care, palliative care and direct payment services";

(d) in paragraph (d), for "and palliative care" substitute ", palliative care and direct payment services";

(e) in paragraph (e), for "and palliative care" substitute ", palliative care and direct payment services".

(3) In the heading of Part 5, for "and palliative care" substitute ", palliative care and direct payment services".

(4) In section 42—

(a) in subsection (1), after paragraph (c) insert—

"(d) action taken by a direct payment service provider in connection with the provision of direct payment services.";

(b) in subsection (6)—

(i) for "64" substitute "64A";

(ii) in the appropriate places insert—

""direct payment service" ("*gwasanaeth taliadau uniongyrchol*");";

""direct payment service provider" ("*darparwr gwasanaeth taliadau uniongyrchol*");".

(5) In section 47(2)—

(a) at the end of paragraph (c) omit "or";

(b) after "a listed authority" insert ", or

(e) a direct payment service provider."

(6) After section 64 insert—

"64A Meaning of "direct payment service" and "direct payment service provider"

(1) This section applies for the purposes of this Act.

(2) "Direct payment service" means a service provided in Wales or in England in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6), of the National Health Service (Wales) Act 2006 (c. 42).

(3) "Direct payment service provider" means a person who provides direct payment services but does not include an individual who—

(a) carries on an activity that involves the provision of domiciliary care in Wales or in England in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6), of the National Health Service (Wales) Act 2006,

(b) carries on the activity otherwise than in partnership with others,

(c) is not employed by a body corporate or unincorporated association to carry it on,

(d) does not employ any other person to carry out the activity, and

(e) provides or arranges the provision of domiciliary care to fewer than four people.

(4) Action is to be treated as action taken by a direct payment service provider if it is taken by—

(a) a person employed by that provider,

(b) a person acting on behalf of that provider, or

(c) a person to whom that provider has delegated any functions.

(5) Action is also to be treated as action taken by a direct payment service provider if—

(a) that provider provides direct payment services by means of an arrangement with another person, and

(b) the action is taken by or on behalf of the other person in carrying out the arrangement."

(7) In section 71(1)(d)(i), for "or independent palliative care provider" substitute ", independent palliative care provider or direct payment service provider".

(8) In section 78(1), in the appropriate places insert—

""direct payment service" ("*gwasanaeth taliadau uniongyrchol*") has the meaning given by section 64A(2);"

""direct payment service provider" ("*darparwr gwasanaeth taliadau uniongyrchol*") has the meaning given by section 64A(3);".

(9) In section 79—

(a) after subsection (1)(f) insert—

"(g) former direct payment service providers.";

(b) after subsection (7) insert—

"(7A) "Former direct payment service provider" means a person who—

(a) at the relevant time, provided direct payment services of a particular description, and

(b) subsequently ceased to do so (whether or not the person has later started to do so again)."

(10) In Schedule 1—

(a) in paragraph 6(1)(f) for "or independent palliative care provider;" substitute ", independent palliative care provider or direct payment service provider;";

(b) in paragraph 15(7)(a) for "or independent palliative care provider" substitute ", independent palliative care provider or direct payment service provider".