

Legislative and Regulatory Offences

Regulation and Inspection of Social Care (Wales) 2016

- Section 43(1) fail to comply with any condition relating to the provider's registration which is for the time being in force.
- Section 44(1) intent to deceive another by (a) pretend to be a service provider, (b) pretend that a place is one at, from or in relation to which a regulated service is provided, or (c) pretend to be a responsible individual.
- Section 45 failure by service provider to comply with requirements in regulations made under section 27 or 37(2)(a).
- Section 46 failure by responsible individual to comply with requirements in regulations made under section 28.
- Section 47 make a statement which the person knows is false or materially misleading in (a) an application for registration, (b) an application to vary or cancel registration, (c) an annual return (submitted under section 10), or (d) responding to a requirement imposed by Welsh Ministers under section 32(1).
- Section 48 fail to submit annual return to the Welsh Ministers within the time limit prescribed under section 10(4).
- Section 49 fail to comply with a requirement imposed on a person by the Welsh Ministers under section 32(1) (to provide information).
- Section 50 intentionally obstructs an inspector exercising any functions conferred (under Chapter 3) or fail to comply with any requirement imposed by an inspector exercising such functions.

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017¹

Offences – service providers - Regulation 85

(1) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2).

¹ As amended by The Regulated Services (Service Providers and Responsible Individuals) (Wales) (Amendment) Regulations 2019.

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 7(3), 7(5), 11(3), 12(1), 12(2), 19(1), 19(2), 19(3), 20(1), 35(1), 38(1), 59(1), 59(2), 59(3), 60(1), 60(2), 60(4), 61(3) and 62(3).

(3) A service provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in:

- (a) avoidable harm (whether of a physical or psychological nature) to an individual,
- (b) an individual being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by an individual of the money or property concerned.

(4) The provisions specified for the purposes of paragraph (3) are the provisions of regulations 6, 7(1), 12(5), 14(1), 14(3), 15(1), 15(3), 15(5), 16(1), 16(5), 18(1), 18(6), 18(7), 21(1), 21(2), 22, 26, 33(1), 34(1), 34(2) and 34(3).

Offences – Responsible Individuals - Regulation 86

(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 67(1), 68(1), 71(1), 71(2), 73(1), 73(2), 73(3), 74(1), 74(2), 75(1), 80(4), 81(1), 84(1) and 84(3)

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

Offences – service providers - Regulation 54

(1) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 5(3), 5(5), 9(3), 10(1), 13(1), 13(2), 13(3), 14(1), 23(1), 26(1), 30(1), 30(2), 31(1), 31(2), 31(3) and 31(5).

(3) A service provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in:

- (a) avoidable harm (whether of a physical or psychological nature) to an individual,
- (b) an individual being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by an individual of the money or property concerned.

(4) The provisions specified for the purposes of paragraph (3) are the provisions of regulations 4, 5(1), 10(4), 12(1), 12(3), 15(1) and 19.

Offences – Responsible Individuals - Regulation 55

(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 36(1), 37(1), 40(1), 40(2), 42(1), 42(2), 43(1), 43(2), 44(1), 49(4), 50(1), 53(1) and 53(3).

The Adult Placement Services (Service Providers and Responsible Individuals) (Wales Regulations 2019)

Offences – service providers - Regulation 64

(1) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 3(3), 3(5), 7(3), 8(1), 8(4), 11(1), 16(1), 16(2), 16(3), 28(1), 31(1), 36(1), 40(1), 40(2), 41(1) and 41(3).

(3) A service provider commits an offence if the service provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in:

- (a) avoidable harm (whether of a physical or psychological nature) to an individual,
- (b) an individual being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by an individual of the money or property concerned.

(4) The provisions specified for the purposes of paragraph (3) are the provisions of regulations 2, 3(1), 10(1), 10(3), 13(1), 13(3), 13(5), 14(1), 14(4), 17(1), 17(2), 21 and 27(1).

Offences – Responsible Individuals - Regulation 65

(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 46(1), 47(1), 50(1), 50(2), 52(1), 52(2), 53(1), 53(2), 54(1), 59(4), 60(1), 63(1) and 63(3).

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

Offences – service providers - Regulation 55

(1) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 4(3), 4(5), 8(3), 9(1), 9(3), 15(1), 15(2), 15(3), 24(1), 27(1), 31(1), 31(2), 32(1) and 32(3).

(3) A service provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in:

- (a) avoidable harm (whether of a physical or psychological nature) to an individual,
- (b) an individual being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by an individual of the money or property concerned.

(4) The provisions specified for the purposes of paragraph (3) are the provisions of regulations 3, 4(1), 11(1), 11(3) and 12(1).

Offences – Responsible Individuals - Regulation 56

(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 37(1), 38(1), 41(1), 41(2), 43(1), 43(2), 44(1), 44(2), 45(1), 50(4), 51(1), 54(1) and 54(3).

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

Offences – service providers - Regulation 68

(1) It is an offence for a service provider to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 4(3), 4(4), 8(3), 9(1), 12(1), 12(2), 12(3), 25, 26, 30(1), 33(1), 39(1), 39(2), 40(1), 40(2), 40(3), 40(4), 40(5) and 40(8)

(3) A service provider commits an offence if the provider fails to comply with a requirement of any of the provisions specified in paragraph (4) and such failure results in:

- (a) avoidable harm (whether of a physical or psychological nature) to a child,
- (b) a child being exposed to a significant risk of such harm occurring, or
- (c) in a case of theft, misuse or misappropriation of money or property, any loss by a child of the money or property concerned.

(4) The provisions specified for the purposes of paragraph (3) are the provisions of regulations 3, 4(1), 9(5), 11(1), 11(3), 13, 20, 27(3) and 29.

Offences – Responsible Individuals - Regulation 69

(1) It is an offence for the responsible individual to fail to comply with a requirement of any of the provisions specified in paragraph (2).

(2) The provisions specified for the purposes of paragraph (1) are the provisions of regulations 50(1), 51(1), 54(1), 54(2), 56(1), 56(2), 57(1), 57(2), 58(1), 63(4), 64(1), 67(1) and 67(4).

Children and Families (Wales) Measure 2010

- Section 21(5) without reasonable excuse acting as a child minder in contravention of an enforcement notice
- Section 23(2) without reasonable excuse providing day care for children on any premises in Wales without being registered to provide day care on those premises
- Section 29(4) without reasonable excuse failing to comply with any condition imposed
- Regulations made under section 30(4) without reasonable excuse contravening or otherwise failing to comply with any requirement of the regulations
- Section 32(7) acting as a child minder in Wales at a time when that person's registration is suspended or providing day care on any premises at a time when that person's registration in respect of those premises is suspended
- Section 39(3) acting as a child minder in Wales whilst disqualified
- Section 39(3) providing day care in Wales or being directly concerned in the management of any provision of day care in Wales whilst disqualified
- Section 39(3) employing a person who is disqualified from registration in connection with the provision of day care or child minding in Wales
- Section 42(7)(a) without reasonable excuse, obstructing a person exercising any power under section 41 or 42
- Section 42(7)(b) without reasonable excuse, failing to comply with any requirement imposed under section 42
- Section 46(1) knowingly making a statement which is false or misleading in a material particular in an application for registration
- Section 50 (if an offence is proved against a body corporate) a separate offence is committed if the offence against the body corporate is committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, or other similar officer of the body corporate or by any person purporting to act in any such capacity
- Section 51(5) (if an offence is proved against an unincorporated association) a separate offence is committed if the offence against the unincorporated association is committed with the consent or connivance of an officer of the association or a member of its governing body, or is attributable to any neglect on the part of any officer or member

Children Act 1989

- Paragraph 5(1)(a) of Schedule 9A acting as a child minder at any time whilst disqualified for registration for child minding
- Paragraph 5(1)(b) of Schedule 9A and regulation 11(4) of the Child Minding and Day Care (Disqualification) (Wales) Regulations 2010 without reasonable excuse failing to comply with the requirements of regulation 11 in respect of disclosure
- NB: By virtue of paragraph 5(2) of Schedule 9A, a person is not guilty of an offence under the above provision if he/she proves he/she did not know, and had no reasonable grounds for believing, that the person in question was living or employed in the household
- Paragraph 5(1)(b) of Schedule 9A providing day care, or being concerned in the management of day care, or having any financial interest in the provision of day care, whilst disqualified for registration for providing day care
- Paragraph 5(1)(b) of Schedule 9A employing a person in connection with the provision of day care who is disqualified for registration for providing day care

NB: By virtue of paragraph 5(3) of Schedule 9A, a person is not guilty of an offence under the above provision if he/she proves he/she did not know, and had no reasonable grounds for believing, that the person whom he/she was employing was disqualified