

Explanatory Memorandum to the Regulated Services (Registration) (Wales) Regulations 2017

This Explanatory Memorandum has been prepared by the Health and Social Services Department and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Regulated Services (Registration) (Wales) Regulations 2017. I am satisfied that the benefits justify the likely costs

Rebecca Evans AM
Minister for Social Services & Public Health

29 September 2017

Part 1 – OVERVIEW

1. Description

In 2011 the Welsh Government published the white paper *Sustainable Social Services: A Framework for Action*. This set out an ambitious plan to create a new integrated and person-centred approach to social services provision in Wales. To achieve this new approach, the Welsh Government made two pieces of primary legislation: *the Social Services and Well-being (Wales) Act 2014* (“the 2014 Act”) and *the Regulation and Inspection of Social Care (Wales) Act 2016* (“the 2016 Act”).

The 2016 Act received Royal Assent on 18 January 2016. It reforms the regulation and inspection regime for social care in Wales and provides the statutory framework for the regulation and inspection of social care services and the social care workforce. It also enables the Welsh Ministers to set out the details of the standards which will apply under the new regime, through the making of regulations, the publication of guidance and the issuing of codes of practice.

This Explanatory Memorandum relates to *the Regulated Services (Registration) (Wales) Regulations 2017* which will come into force in April 2018.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

There are no matters of special interest to the Constitutional and Legislative Affairs Committee.

3. Legislative background

The powers enabling these Regulations to be made are contained in sections 6 and 11 of the 2016 Act. *The Regulated Services (Registration) (Wales) Regulations 2017* are being laid under the affirmative procedure.

The Welsh Ministers have the function of regulating care and support services in Wales. The Care and Social Services Inspectorate (CSSIW) carries out this function on behalf of the Welsh Ministers.

Section 6 of the 2016 Act sets out the overarching requirements for registering to provide a regulated service. This section states that an applicant must specify the regulated service they wish to provide, the place at, from or in relation to which the service is to be provided and the person designated to be the responsible individual. There are two regulation-making powers in this section, as follows:

- Section 6(1)(d) allows the Welsh Ministers to prescribe further information required in an application for registration to provide a regulated service ; and
- Section 6(2) allows the Welsh Ministers to prescribe the form of an application made under this section.

Section 11 of the 2016 Act sets out the situations in which a service provider must make an application for variation of their registration. This covers situations where a provider wants:

- to provide a regulated service they are not already registered to provide,
- to provide a regulated service at, from or in relation to a place not already specified in the provider's registration,
- to cease to provide a regulated service,
- to cease to provide a regulated service at, from or in relation to a place,
- a condition imposed their registration to be varied or removed, or
- to designate a different responsible individual in respect of a place or is required to designate a responsible individual because there is no responsible individual designated in respect of a place.

There are three regulation-making powers in section 11:

- Section 11(2) requires that the Welsh Ministers prescribe a time limit within which an application for variation of a provider's registration must be made in the circumstances where there is no responsible individual designated in respect of a place at, from or in relation to which a regulated service is provided ;
- Section 11(3)(a)(iii) enables the Welsh Ministers to set out further information which must be included in an application to vary a registration; and
- Section 11(3)(b) allows the Welsh Ministers to prescribe the form of an application for variation.

Registration is mandatory under the current system of regulation and inspection under the Care Standards Act 2000 ("the 2000 Act"). Under the 2000 Act, it is a criminal offence to carry on or manage an establishment or agency without being registered to do so.

The existing model of service regulation is based on establishments and agencies. That is, service providers have to individually register each establishment (such as a care home or children's home) or agency (such as a domiciliary care agency or adoption agency) which they are carrying on. The 2016 Act establishes a new system of regulation which involves a change from an agency and establishment model to a service-based regime.

This new model under the 2016 Act means that providers are required to register if they intend to deliver regulated services in Wales, even if the office from which they manage the service is based in England. Whilst providers are still required to identify the place(s) at, from or in relation to which a service is being provided, the new system only requires individuals or organisations to register once with CSSIW. This registration will cover a provider's entire portfolio of services. If a provider wishes to provide additional services or provide the same service from different places they must apply to vary their registration.

As part of this new model, the 2016 Act therefore also changes the system in respect of the registration of the manager of the service. Under the current system, a person managing a service is required to register with CSSIW. As part of the move to a

service-based regime however, this will no longer be a requirement under the 2016 Act as a provider's entire portfolio of services will be covered by a single individual's or organisation's registration. The person managing a service will however, have to register with Social Care Wales (SCW) as the workforce regulator.

Through this service-based model, the 2016 Act provides the flexibility for service providers in terms of registering the services they wish to provide. The 2016 Act also gives providers the ability to expand their operations more easily and simply. CSSIW will have flexibility to take action at the appropriate level if things go wrong, i.e. by cancelling the part(s) of the service provider's registration that may be consistently non-compliant whilst allowing them to maintain parts of their registration which remain compliant, be that either a particular regulated service or a particular place at, from or in relation to which a regulated service is provided. This enables CSSIW to respond in a more agile way if there are failures at a provider level.

4. Purpose & intended effect of the legislation

Registering service providers¹ enables CSSIW to monitor the activity of regulated services to ensure standards are being upheld.

The 2016 Act sets out the high-level information required when submitting an application to register as a provider of regulated services or to vary an existing registration.

These regulations provide the detail in relation to all of these regulation-making powers and set out:

- i. the additional information that must be contained in an application for registration;
- ii. the form the application for registration must take;
- iii. the additional information that must be contained in an application to vary a registration;
- iv. the form the application to vary a registration must take; and
- v. the time limit within which an application for variation must be made in circumstances where there is no Responsible Individual designated.

These Regulations will replace the requirements in the *Registration of Social Care and Independent Health Care (Wales) Regulations 2002* ("the 2002 regulations") made under the 2000 Act in relation to the registration of care home services for children and adults, secure accommodation services, domiciliary support services and residential family centres. The 2002 regulations will continue to apply to the registration of adoption agencies, fostering agencies and adult placement schemes under the 2000 Act. It is intended that the registration of adoption services, fostering services and adult placement services under the 2016 Act will be commenced in April 2019, together with the registration of advocacy services.

¹ A service provider means a person registered under section 7 of the 2016 Act to provide a regulated service. Section 7 is "Grant or refusal of registration as a service provider."

5. Consultation

A 12 week consultation on these regulations ran between 28 June and 20 September 2016. Further details on the consultation process are set out in the Regulatory Impact Assessment in Part 2. The consultation summary report and a list of respondents can be found at:

<http://gov.wales/consultations/healthsocialcare/regulation-and-inspection-act/?lang=en>

PART 2 – REGULATORY IMPACT ASSESSMENT

The options considered by the Welsh Government in relation to sections 6 and 11 of the 2016 Act are as follows:

Options

Option one: develop Regulations which prescribe only a time limit within which an application for variation of a registration must be made

Under this option, there would still be a requirement for a person who wants to provide a regulated service to make an application for registration to Welsh Ministers (via CSSIW) as set out in section 6 of the 2016 Act. However, there would be no Regulations setting out the additional information which must be supplied in an application to register or to vary a registration or the form which those applications must take.

As required by Section 11(2) of the 2016 Act, regulations under this option would however, prescribe a time limit within which an application for variation of a provider's registration must be made in the circumstances where there is no responsible individual designated in respect of a place at, from or in relation to which a regulated service is provided.

Option two: develop Regulations that prescribe additional detail in respect of registrations

Under this option, more detailed Regulations would be developed under both section 6 and section 11 of the 2016 Act. A summary of the contents of the proposals, as they relate to the regulation-making powers in the 2016 Act, and to the current system, is as follows:

Additional information to register

Under this option, Regulations will streamline the information that providers must submit in their application to register compared with the current system.

The main change compared with the current system will be in relation to the statement of purpose. The statement of purpose is a written document which sets out the aims and objectives of the service and the way in which the provider will meet these aims.

This is an existing requirement for providers, and these requirements are set out in schedules within the setting-specific regulations² under the 2000 Act. Those regulations require a list of information to be included in the statement of purpose, and vary for each regulated service.

² These are: The Care Homes (Wales) Regulations 2002; The Children's Homes (Wales) Regulations 2002; The Domiciliary Care Agencies (Wales) Regulations 2004; The Residential Family Centres (Wales) Regulations 2003; The Fostering Services (Wales) Regulations 2003; The Adoption Support Agencies (Wales) Regulations 2005; The Adult Placement Schemes (Wales) Regulations 2004.

Under this option however, the statement of purpose requirements will be consistent across all regulated services, with some modifications to ensure requirements are relevant to the service.

The requirements will also be streamlined compared to the current system. There will be fewer prescriptive requirements for information and a greater emphasis will be placed on qualitative, rather than quantitative, data. For example, the Regulations under this option will require applicants to state how they intend to meet the needs of individuals and support them to achieve their personal outcomes, as required by regulations under section 27 of the 2016 Act. This will vary depending on the type of service, as the section 27 and 28 regulations may differ depending on the regulated service.

Linking the registration regulations back to the section 27 and 28 regulations will ensure requirements in relation to the statement of purpose are proportionate and relevant to the particular service being delivered. It will also mean there will be a greater emphasis on providers demonstrating that their service can meet its aims and objectives in relation to the provision of care and support for individuals.

Under this option, there will be fewer requirements regarding information about staff compared to the existing system. The 2002 Regulations require information about all staff working at the service, set out in part 3 of schedule 1. The Regulations under this option however, will require details of the proposed management and staffing structure of the service within the statement of purpose. However, they will not require a long list of information about all of the staff working at the regulated service, although the provider will be required to obtain the same level of information about staff working at the service under the regulations to be made under section 27 of the 2016 Act.

Although most of the requirements for information will be streamlined, there will be additional requirements not currently required for any service. These will be:

- details of the arrangements made to support the cultural, linguistic and religious needs of service users; and
- details of how the provider will meet the language and communication needs of individuals, including through the medium of Welsh;

Form of the application to register

Under this option, Regulations will specify that an application for registration must be made by completing the form that appears on the relevant page of the Welsh Government's website. This will require providers to complete their applications online rather than post their application.

Additional information to apply to vary a registration

Regulations under this option will also set out the information required in relation to the different scenarios for varying a registration. This includes a provider wanting to:

- a) provide a service the provider is not already providing;

- b) provide a service at, from, or in relation to, a place which is not already specified in the provider's registration;
- c) cease to provide the service at, from, or in relation to, a place;
- d) cease to provide the service altogether;

It will also include situations where a provider wants a condition removed from their registration or wants to vary a condition which has been imposed on their registration and where a provider wishes to designate a different responsible individual or to designate a responsible individual where there is no responsible individual designated.

Regulations under this option will state that providers wishing to cease to provide a service either in relation to a particular place or altogether must provide the additional information:

- (a) The proposed effective date;
- (b) The reason for making the application;
- (c) A statement as to how the service provider intends to continue to comply with the regulations made under section 27 of the 2016 Act up until the service ceases to be provided;
- (d) Details of any notice given about the proposed application to vary to –
 - (i) Service users;
 - (ii) The local authority within whose area the regulated service is being provided;
 - (iii) The Local Health Board within whose area the regulated service is being provided;
 - (iv) Any other person;
- (e) Where the service provider is applying to vary the registration less than 3 months before the proposed effective date, a report as to whether the regulated service or place at, from, or in relation to which the regulated service is being provided has ceased or is likely to cease to be financially viable within the next 12 months.

Providers wishing to remove a condition from their registration or to vary a condition of their registration must provide the following additional information:

- (a) The proposed effective date;
- (b) The reason for making the application;
- (c) Details of any changes that the service provider proposes to make in relation to the regulated service as a consequence of the variation or removal applied for, including details of –
 - (i) Any proposed structural changes to any premises used for the provision of the regulated service;
 - (ii) Any additional staffing, facilities or equipment or changes to the management that are required to ensure that the proposed changes are carried into effect;

- (d) Any supporting documentation which the service provider considers will assist the Welsh Ministers in making a decision whether to approve the application to vary or remove a condition.

Providers wishing to designate a different responsible individual or to designate a responsible individual where there is no responsible individual designated must submit an application containing the further information required in paragraphs 23 to 28 and paragraphs 38 to 49 of Schedule 1.

The time limit within which an application for variation must be made in circumstances where there is no Responsible Individual designated

The Regulations will state that the time limit for varying a registration in order to designate a responsible individual where there is no responsible individual will be 28 days from the date upon which there is no responsible individual designated.

Costs

Option one:

There will be a potential cost to Welsh Government, specifically for CSSIW as the service regulator as they will need to operate a system to process the registrations required under this option.

CSSIW already operate a process for handling registrations in undertaking their responsibilities under the 2000 Act. The current process and approximate costs in terms of staff time are outlined below:

Current CSSIW Registration Process

- Application is submitted/received
- The Business Support Officer undertakes initial submission check (and if not complete, return it with a letter explaining the reason), any reference checks (employer + 1, medical, ban) and a DBS ID check. Approximate time: - 2 hours of 1 x Management Band 3 grade
- The registration inspector will undertake a quality review check. Approximate time: 5hrs to 1 day of 1 x Management Band 2 grade (depending on whether all necessary information is available/provided)
- Registration visit is undertaken. Approximate time: ½ day of 1 x Management Band 2 (for small settings) or 1 day x 2 Management Band 2 (for larger settings)
- Development of a registration report. Approximate time: 3 hours to 1 day of 1 x Management Band 2 (this includes agreement of any conditions placed on the registration with the provider, however where CSSIW are refusing or changing conditions, this would also have to be submitted for legal advice as well).
- The senior registration inspector undertakes a quality check of the report. Approximate time: 1- 2 hrs of 1 x Management Band 1
- Send out Notice of Decision and certificate. Approximate time: 1 hour of 1 x Management Band 2 and Management Band 3

In total, the cost to CSSIW for registering a service provider is estimated to be between £425 and £940, depending upon the size of the service provider and whether the service provider has submitted all of the required information³.

There were 85 new regulated services registered in 2016/17 (however, this does not include any registrations processed that may not have been successful).

CSSIW would be able to modify their current registration process in order to make the registrations required under this option. Any transitional costs associated with CSSIW modifying their systems to do this would be in terms of staff time. Under this option, there is however a potential for increased costs to CSSIW in terms of staff time, as it could take longer for CSSIW to process the registrations required. This is because, under this option, there would be no detail provided in regulations specifying the information required for a person who wants to provide a regulated service for their registration. Therefore CSSIW may receive information from providers in a variety of different formats, adding to CSSIW staff time at the submission stage as described in the current registration process above.

Service providers are already required to provide information in order to register with CSSIW under the current system, as set out in the 2002 regulations. The 2002 regulations set out more detailed requirements for registration compared with the information required under this option, specifying within schedules of the 2002 regulations, the detailed information that should be provided in relation to an application.

However, as these requirements would not be set out in regulations under this option, there would potentially be a cost saving to providers in terms of staff time as less detailed information would be required by law. This saving is difficult to quantify however as it would depend on the size of the provider, the seniority of the individual completing the application and the amount of information the application chooses to provide. The potential saving to providers would be negated by the lack of clarity on what is required by the regulator and could potentially result in an additional cost to the service provider as this could lead to providers increasing the volume of information they give to CSSIW to gain registration.

In terms of estimating the number of providers that would have to register under this option, the current numbers of providers and services registered (as of September 2017) is set out below:

	Providers	Services
Providers of Care Homes	660	1,209
Providers of Children's Homes	57	159
Providers of Domiciliary Care	290	338

³ This is based on annual staff costs (including on-costs) of £55,248 for a Management Band 1 cost, £43,200 for a Management Band 2 and £32424 for a Management Band 3. There are assumed to be 220 working days each year and 7.5 hours per working day.

Other Providers (fostering, adoption, etc)	32	35
Total	1,039	1,741

If on the assumption all existing providers would register under this option, there would therefore be 1039 providers registering.

Recurring costs

Under this option, a person who wants to register as a service provider of a regulated service will only required to do this once (for each type of regulated service). Therefore, there will be no recurrent re-registration cost.

Option two:

As with option one, there will be a potential cost to Welsh Government, specifically for CSSIW as the service regulator as they will need to operate a system to process the registrations required under this option.

However, as described under option one, CSSIW already operate a process for handling registrations in undertaking their responsibilities under the 2000 Act. The current process and approximate costs in terms of staff time for this process were outlined under that option.

Also as per option one, CSSIW would be able to modify their current registration process in order to make the registrations required under this option. Any transitional costs associated with CSSIW modifying their systems to do this would be in terms of staff time. Compared with option one however, these costs are likely to be negligible as this option maintains the current system as far as possible.

Under this option, regulations will require that providers use the approved form on the Welsh Government's website. This will be a new online form that is being developed as part of a wider project to update CSSIW's ICT system. The ICT system is being updated to respond to a number of changes being made as a result of the 2016 Act. This includes:

- an online and publicly available register of service providers;
- online processes to support inspection and enforcement activity;
- online processes to support the administration of the new system of regulation and inspection – for example, provider notifications, notices, documents, etc;
- online storage of records for previous registrations under the Care Standards Act 2000;
- the online management and publication of provider annual returns.

The system is not being updated purely on the basis of the registration regulations. The overall cost of the ICT system is £790,000. This is broken down as follows:

Registration	£240,000
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Data Collection	£120,300
Regulation and Inspection model	£203,500
Notifications and Variations	£136,200
Communications	£90,000
Total	£790,000

It is not possible to isolate the cost of developing the online registration form from the overall costs as it is only a small part of the overall system development.

As with option one, there will also be a potential cost to people who want to provide a regulated service (service providers) as they will need to provide to CSSIW the information required in relation to registration required under this option.

The key additional costs for providers in relation to this option are set out as below:

Additional information to register

During the transitional year (2018-19), it may take providers longer to put together the additional information required to register under this option mainly in relation to the statement of purpose. Rather than the long list of information required under the 2002 regulations, providers will instead be required to create a narrative around their service within their statement of purpose, setting out how the provider and responsible individual will satisfy the requirements as to the standard of care and support.

They will also have to include additional information, not listed in any of the current requirements. These are:

- details of the arrangements made to support the cultural, linguistic and religious needs of service users; and
- details of how the provider will meet the language and communication needs of individuals, including through the medium of Welsh;

However, they will be required to provide less information about individual staff members.

CSSIW will be providing guidance under this option, specifically on the Statement of Purpose and in due course, exemplars of Statements of Purpose for service types. The intention of this is to provide a clear steer for service providers of what is required by the regulator when they submit their Statement of Purpose.

Although there will be a cost to CSSIW producing this guidance in terms of staff time, this would not be a new cost as CSSIW are required to produce and update guidance where appropriate on all of their key processes. Therefore this would be a business as usual cost.

Because the Regulations under this option link back to the regulations under section 27 and 28 of the Act - which place requirements on service providers and responsible individuals about the standards of care and support - the information will be necessarily proportionate and relevant to the service.

In terms of quantifying the cost to providers of producing the statement of purpose required under this option, some comparison can be made with the estimated time taken for providers taken to complete their annual return.

The Regulatory Impact Assessment (RIA) for the Regulation and Inspection of Social Care Wales Bill (“the Bill”)⁴ estimated that it would take providers 4 working days (assuming the working week is 37 hours) to complete the annual report (now entitled “annual return” so as to distinguish this from the local authorities’ annual reports). The annual return, a requirement under section 10 of the 2016 Act, contains a similar level of information in relation to a service. It is therefore estimated that a statement of purpose will take a similar amount of time to complete. The RIA for the Bill states:

*7.32 UKHCA has suggested that it would take a small service provider approximately **four working days** to collect and analyse the data required for the quality of service annual report. This would include, for example, collecting and analysing administrative and survey data.*

*7.33 Data collection and analysis is normally delegated by the service manager to members of staff best placed to undertake the task. Assuming the task is allocated to a member of staff who is on an administrative salary, the cost of collecting and analysing data for the self-assessment is estimated to be approximately **£392 per setting**. Thus, the total annual cost to the 946 independent social care service providers for collecting and analysing data for the 1,562 settings in Wales is approximately **£612,300**.*

The cost of £392 for each setting as described by UKHCA above can also be applied to the cost of producing a statement of purpose for each place at, from, or in relation to which a service is to be provided, as required in the Regulations under this option. However, this figure will vary depending on the salary of the person producing the statement of purpose. As this figure is an estimate for a small service provider, it may also vary for a larger provider or local authority.

Additional information to apply to vary a registration

The Regulations under this option will set out the information requirements depending on the type of variation a provider is seeking.

Providers wishing to remove a condition from their registration or to vary a condition and who wish to designate a different responsible individual or to designate a responsible individual where there is no responsible individual designated will have to provide some additional information compared with option one. However, the requirements for information in relation to the registration of a manager will no longer apply, as it is no longer a requirement of the 2016 Act that the manager is registered with CSSIW. The cost to service providers to provide this additional information will be negligible and will be negated by managers not having to register with CSSIW.

¹[http://www.assembly.wales/laid%20documents/pri-ld10106-em%20-%20regulation%20and%20inspection%20of%20social%20care%20\(wales\)%20bill/pri-ld10106-em-e.pdf](http://www.assembly.wales/laid%20documents/pri-ld10106-em%20-%20regulation%20and%20inspection%20of%20social%20care%20(wales)%20bill/pri-ld10106-em-e.pdf)

In terms of estimating the number of providers that would have to register under this option, the current number of providers set out under option one also apply here (1039 providers).

Recurring costs

As with option one, a person who wants to register as a service provider of a regulated service will only be required to do this once (for each type of regulated service). Therefore, there will be no recurrent re-registration cost.

Benefits

Option one

No particular benefits have been identified in relation to this option.

Option two

Additional information to register

Linking the statement of purpose requirements under this option with the regulations under sections 27 and 28 of the Act moves away from a “tick-box” approach to meeting the requirements, to a more comprehensive approach in setting out how services are able to meet people’s care and support needs and can support people to achieve their personal outcomes. A more focussed approach to the statement of purpose will provide key information for CSSIW at the point of registration so they are able to make a sound judgement as to the suitability of the applicant to deliver the regulated service. It is recognised that some matters may need to be tested and assessed through interview but this will not be a requirement for all applicants.

The removal of the requirements in relation to information for all staff members supports the policy intention of having requirements that are proportionate and practical. Removing this requirement will be more workable for providers as, often, at the stage of registering a service, not all staff will be in place. The intention of the 2016 Act is to place ownership and responsibility for services with the provider and the responsible individual and not for the Welsh Government to try to manage services at arm’s length via prescriptive requirements. Under this option, providers will have responsibility for the recruitment of staff and will be required to have relevant policies and procedures in place to do this. The fitness requirements for staff are set out in Regulations under section 27 of the 2016 Act and these are no less rigorous than the existing system.

Under this option, providers will have to include additional information in their statement of purpose, not listed in any of the current requirements.

Including these requirements supports the aims in the Welsh Government’s Strategic Framework for Welsh Language Services in Health, Social Services and Social Care, *More than Just Words*, “Health and social services care for people as individuals, ensuring that they are accurately assessed and their care needs met.

Peoples' cultural identity and language needs must be at the heart of this because it is an essential element to good quality care and high professional standards.”

These requirements extend beyond the Welsh language. Whatever people's preferred language, the service will be required to demonstrate the arrangements they will make to support people of different cultural, linguistic and religious backgrounds. This is consistent with the ethos of person-centred care and promotes an inclusive approach.

Under this option, providers will have more clarity about the information they need to submit in order to register. The 2002 Regulations contained an ancillary power to request “any other information which the registration authority reasonably requires the applicant to give.” This requirement has not been replicated under this option. The reason for this is that there is no power to make regulations which require any other information apart from the information prescribed.

Form of the application to register

The new ICT system under this option will enable applicants to easily submit a large volume of information and documentation online, as opposed to the existing system of posting or emailing the information. It will be much quicker for applicants to apply and easier for CSSIW to collate and process the applications. It will also make it easier to keep records about each service provider which will save time and reduce the chance of lost paperwork.

Additional information to apply to vary a registration

The benefit of requesting the detailed information required under this option is that CSSIW will be able to make a sound judgement as to whether it would be appropriate for the provider to add a service or place to their portfolio.

More generally, the ICT system being developed is intended to support providers with the process of varying a registration. As far as possible, information from a provider's initial application will be pre-populated in the online form for variation. This will avoid duplication and save the provider time. It will also help CSSIW to more easily process applications.

The time limit within which an application for variation must be made in circumstances where there is no Responsible Individual designated

The responsible individual plays a key oversight role for the service under the new system, with requirements that are set out in law. The benefit of the 28 day limit is to ensure that services are not without a responsible individual for a significant period of time.

Risks

Option one

A number of risks have been identified under this option. Without Regulations that specify the additional information to be included in an application to register, or to vary an existing registration, people who wish to provide or vary a regulated service will not know what level of information to provide. This is likely to result in inadequate information being provided.

In addition, CSSIW will have no power under this option to refuse an application if information, other than the information which is required by section 6(1)(a) to (c) of the 2016 Act, is not supplied. This would cause unnecessary confusion and delay in the application process and would be unsatisfactory for both the applicant and for CSSIW.

Without Regulations that specify the form applications must take the whole process of registering people is likely to take a lot longer. There would be no online form on the Welsh Government's website which means people would have to submit a large volume of information over email or by post. This will be less user-friendly and take more time, both for applicants and for CSSIW.

Option two

Under this option there is a risk that the process of registration could take longer than expected due to providers not meeting the expectations of the requirements in relation to statement of purpose. However, this will be mitigated by issuing guidance to providers in advance of the regulations coming into force. CSSIW will develop this guidance co-productively with the sector to ensure it is fit for purpose. Any delays in the re-registration process will also be mitigated by a phased approach to re-registration, giving providers a year to re-register from the time the regulations come into force in April 2018.

Conclusion

Having analysed the costs, benefits and risks of each option, the preferred option is **option two - develop Regulations that prescribe additional detail in respect of registrations.**

Consultation

A 12 week consultation on these regulations ran between 28 June and 20 September 2016. The consultation summary report and a list of respondents can be found at:

<http://gov.wales/consultations/healthsocialcare/regulation-and-inspection-act/?lang=en>

Responses to the consultation were broadly supportive of the principles behind the draft regulations and the approach proposed to take when regulating. As a result, only minor changes were made to the regulations at this stage.

Following the consultation on regulations developed under Phase 2 of the 2016 Act- *The Regulated Services (Service Providers and Responsible Individuals) Regulations 2017*, further minor changes to these regulations were made. These changes were primarily amendments to provide additional clarity and consistency with the regulations developed under Phase 2.

Competition Assessment

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector categorised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

The competition assessment filter test has been completed on the proposed regulation. It has been determined that this regulation will have no detrimental effect on competition.

Post implementation review

CSSIW are expected to have fully registered providers under the new system by March 2019. After this date, the Welsh Government will reflect on the process and consider whether any revisions will need to be made in future.