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## **Healthcare Inspectorate Wales**

Guidance - information to be  
supplied when Responsible  
Individuals (RIs) change

June 2017

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## Introduction

This guidance aims to clarify the legal framework in relation to the Responsible Individual (RI). It covers the checks that Healthcare Inspectorate Wales (HIW) must undertake within the meaning of The Care Standards Act 2000 and Regulations 10, 13 and 33(f) of the Independent Health Care (Wales) Regulations 2011 (the IHC Regulations), when notified of a change to the identity of the RI (see references on pages 7 and 8).

This document is for guidance only. It does not replace the need to refer directly to the relevant legal provisions. References in this document to “establishment” include an agency.

If you would prefer a hard copy of this guidance please contact Healthcare Inspectorate Wales (HIW):

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## Background

The role and responsibilities of a RI varies across provider organisations and is often determined by the size of an organisation and / or the nature of its business. The legislation does not specify what responsibilities the RI should have, other than is set out in Regulation 10(2)(b)(i) of the IHC Regulations (see references on pages 8 and 9).

In some organisations they may be a senior clinical manager and in others a board director. The RI may or may not have the authority to make strategic decisions (for example, about staffing, resources, finances or premises) and there is no requirement under the Care Standards Act 2000 or the IHC Regulations for them to have this responsibility.

Registered persons are under a continuing obligation to carry on and manage the relevant establishment with sufficient care, competence and skill, and HIW will be regulating the service with this in mind. As a part of this obligation, the registered provider is also under an ongoing responsibility to ensure the RI undertakes appropriate training to have the necessary skills for carrying on the establishment.

HIW will want to be assured the person nominated as RI not only has the requisite personal skills and experience for the role, but also has the necessary strategic authority within the organisation to effectively supervise the management of the establishment.

HIW will expect to see these matters evidenced in the RI's qualifications and CV, the person specification and job description for the role.

If, in any particular case HIW considers it needs further information in respect of any of the above, it may require a person carrying on or managing the service to provide it.

## Registered providers obligations to comply with regulatory requirements

Once a provider is registered, there is a continuing obligation to run the establishment with sufficient care, competence and skill. In relation to the appointment of the RI this means, in particular, that the provider must ensure the RI:

- continues to be suitable in terms of their meeting the regulatory requirements under Regulation 10(3) of the IHC Regulations as to personal fitness (see references on page 7);
- undertakes relevant training from time to time to maintain the skills needed for the position as required by Regulation 13(2)(b) of the IHC Regulations (see references on page 8); and
- has the requisite authority within the organisation to be enabled to effectively supervise the management of the service.

Whenever the registered provider appoints a different RI, after registration, the registered provider is responsible for ensuring that person:

- meets the personal fitness requirements under Regulation 10(3) of the IHC Regulations (see references on page 7), and
- undertakes necessary training as required by Regulation 13(2)(b) (see references on page 8), and is given the necessary authority in the organisation for supervising the management of the service.

This means that the registered provider will need to obtain the information required under Schedule 2 of the IHC Regulations in relation to the RI, and this includes:

- Positive proof of identity including a recent photograph.
- Appropriate disclosure and barring service (DBS) certificate.
- Written references from each of the person's two most recent employers.
- Where a person has previously worked in a position which involved work with children or vulnerable adults, verification, so far as reasonably practicable, of the reason why the employment or position ended.
- Documentary evidence of any relevant qualification.
- A full employment history, together with a satisfactory written explanation of any gaps in employment.
- Where the person is a health care professional, details of the person's registration with the body (if any) responsible for regulation of members of the health care profession in question

## Notifications under Regulation 33

Where a different RI is appointed to supervise the management of the registered service, the registered person must notify HIW in accordance with Regulation 33 of the IHC Regulations (see references on page 9).

As explained above, it is the responsibility of the registered provider to ensure any new RI is suitable for the position.

The RI is not a registered person and therefore HIW's involvement will be to check the registered provider's compliance with Regulations 10(3) and 13 of the IHC Regulations as a part of its regulatory and inspection function (see references on pages 8 and 9).

In practice this means that, following the new RI's appointment, providers will be asked to submit a self assessment and declaration that they have carried out the required checks. HIW have introduced a Change of Responsible Individual form to be complete when the Responsible Individual changes, which is available at <http://hiw.org.uk/providing/cancelorchange/?lang=en>

This will require providers to confirm if requested to by HIW that the relevant checks have been carried out on the RI and that providers will continue to meet their obligations under Regulations 10 and 13 in respect of the RI (see references on pages 8 and 9).

Providers will also be required to provide HIW (where appropriate) with written authority if the RI is to have:

- (i) responsibility for making any application under section 15 of the Act, such as to vary or remove a condition of registration, or to cancel the registration, etc;
- (ii) responsibility for making decisions on behalf of the provider, such as agreeing conditions of registration, or making written representations in relation to any proposed action by HIW;
- (iii) strategic authority and resources to implement any specific requirements as may be made by HIW, such as the taking of remedial action in relation to an alleged breach of Regulation.

The registered provider is directly accountable for compliance with the Regulations and risks prosecution for failure to do so.

## **When would HIW request further information from the registered provider in relation to the RI?**

If at any time after the appointment of a new RI, HIW has concerning information to suggest that the new RI may not be suitable for the role they are to perform, HIW will always request further information in line with the requirements of Regulation 10(3) and 13(1) and 13(2)(b) of the IHC Regulations (see references on pages 7 and 8):

- ask the registered provider for copies of any references taken up in relation to the RI (including medical references)
- want to be satisfied by documentary evidence that the appropriate level of DBS check has been carried out
- interview (where appropriate) the RI in private.

It may also be necessary for HIW to visit the establishment to verify the authenticity of these but it should be normal practice for HIW to initially request a photocopy.

## **Certificate of registration**

Where HIW is notified of a change in RI, HIW will issue an amended certificate to reflect this.

The new certificate and a covering letter will be sent to the RI at the registered establishment or agency address and the old certificate should then be returned to HIW.

## References

### The Independent Health Care (Wales) Regulations 2011

#### Regulation 10 Fitness of Registered Provider

(1) A person must not carry on an establishment or agency unless the person is fit to do so.

(2) A person is not fit to carry on an establishment or agency unless the person—

(a) is an individual who satisfies the requirements set out in paragraph (3); or

(b) is an organisation and

(i) the organisation has given notice to the appropriate office of the registration authority of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the establishment or agency; and

(ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that—

(a) the individual is of suitable integrity and good character to carry on, or, as the case may be, be responsible for the supervision of the management of, the establishment or agency;

(b) the individual is physically and mentally fit to carry on, or, as the case may be, be responsible for the supervision of the management of, the establishment or agency; and

(c) full and satisfactory information or documentation, as the case may be, is available in relation to the individual in respect of each of the matters specified in paragraphs 1, 2 and 4 to 8 of Schedule 2.

(4) A person is not fit to carry on an establishment or agency if

(a) the person has been adjudged bankrupt or sequestration of the person’s estate has been awarded and (in either case) the person has not been discharged and the bankruptcy order has not been annulled or rescinded or a moratorium period under a debt relief order applies in relation to the person; or

(b) the person has made a composition or arrangement with the person’s creditors and has not been discharged in respect of it.



### **Regulation 13 Registered person general requirements**

(1) The registered provider and the registered manager must, having regard to the size of the establishment or agency, the statement of purpose and the number and needs of the patients, carry on or manage the establishment or agency, as the case may be, with sufficient care, competence and skill.

(2) If the registered provider is—

- (a) an individual, he or she must undertake; or
- (b) an organisation, it must ensure that the responsible individual undertakes,

from time to time such training as is appropriate to ensure that he or she has the skills necessary for carrying on the establishment or agency.

(3) Any individual managing the establishment or agency must undertake from time to time such training as is appropriate to ensure that he or she has the skills necessary for managing the establishment or agency.

### **Regulation 33 Notice of changes**

(1) The registered person must give notice in writing to the appropriate office of the registration authority as soon as it is practicable to do so if any of the following events take place or are proposed to take place

- (a) a person other than the registered person carries on or manages the establishment or agency;
- (b) a person ceases to carry on or manage the establishment or agency;
- (c) where the registered person is an individual, he or she changes his or her name;
- (d) where the registered provider is an organisation
  - (i) the name or address of the organisation is changed;
  - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
- (e) the responsible individual changes his or her name;
- (f) there is any change in the identity of the responsible individual;
- (g) where the registered provider is an individual, a trustee in bankruptcy is appointed or a composition or arrangement is made with creditors;
- (h) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
  - (i) the premises of the establishment are significantly altered or extended, or additional premises are acquired which are intended to be used for the purposes of the establishment.