

## Healthcare Inspectorate Wales

### Guidance – process when a Registered Manager (RM) changes

July 2018

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## Introduction

This guidance aims to clarify the legal framework in relation to the Registered Manager (RM). It covers the process that Healthcare Inspectorate Wales (HIW) must undertake within the meaning of The Care Standards Act 2000 and Regulations 11, 12 and 33 of the Independent Health Care (Wales) Regulations 2011 (the IHC Regulations), when assessing an application to change to the identity of the RM (see references on pages 6 and 7).

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):

Government Buildings / Adeiladau'r Llywodraeth  
Rhydycar Business Park / Parc Busnes Rhydycar  
Merthyr Tydfil / Merthyr Tudful  
CF48 1UZ

Tel: 0300 062 8163  
Email: [hiw@gov.wales](mailto:hiw@gov.wales)  
Website: [www.hiw.org.uk](http://www.hiw.org.uk)

### General Data Protection Regulations 2016

In order to process an application for registration under the Care Standards Act 2000, Healthcare Inspectorate Wales (HIW) on behalf of Welsh Government will request personal information on the applicant or from an individual with permission to act on their behalf. This information is required for the purposes of the exercise of our official authority and public interest in processing your application to register. If you don't provide this information then your application cannot be processed.

HIW, on behalf of the Welsh Government uses the personal information to process your application for registration and will share your information with other regulatory bodies, law enforcement agencies and with others within the Welsh Government.

The Welsh Government will hold your data for 7 years following de-registration in line with audit requirements.

You have the right to access the personal data we are processing about you, rectify inaccuracies, in certain circumstances object to processing or erasure of your data and lodge a complaint.

For further details and the full Privacy Notice is available at [www.hiw.org.uk](http://www.hiw.org.uk).

## Background

The role and responsibilities of a RM 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 RM should have, other than is set out in Regulation 12 of the IHC Regulations (see references on page 6).

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 RM completes appropriate training to have the necessary skills for managing the establishment.

HIW will want to be assured the person nominated as RM has the requisite personal skills and experience as well as being medically fit for the role as evidenced in the RM's application and supporting documentation.

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 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 RM this means, in particular, that the provider must ensure the RM continues to be suitable in terms of their meeting the regulatory requirements of Regulations 11 and 12 under the IHC Regulations (see references on page 6).

If an existing registered setting changes the RM, the registered person must notify HIW in accordance with Regulation 33 of the IHC Regulations (see references on page 7). Notifications can be found on the HIW website – [www.hiw.org.uk](http://www.hiw.org.uk).

When the new RM has been identified, an application form - *Application to register as the new manager of a setting already registered with Healthcare Inspectorate Wales* – must be completed by the person applying to register and authorised by the Responsible Individual.

An application should be supported with the following documentation:

- Updated Statement of Purpose (showing new RM details)
- Updated Patient Guide (showing new RM details)
- 2 x personal / professional references
- 1 x medical reference
- Completed DBS form or disclosure certificate for the update service, including relevant fee (DBS checks **must** be completed by HIW)
- £100 Registered Manager application fee (unless exempt<sup>1</sup>)

When an existing RM leaves their post it is their responsibility (not the provider's) to notify HIW. An application to cancel their registration must be submitted and can be found on the HIW website – [www.hiw.org.uk](http://www.hiw.org.uk). The consequence of not cancelling their registration is that they remain legally liable for the service.

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<sup>1</sup> The amount to pay is not determined by HIW, but is set out in the Independent Health Care (Fees) (Wales) Regulations 2011. You will not have to pay a fee if you are a person carrying on or managing, or applying to carry on or manage a Hospice or if you are the provider of an establishment or agency and you are a charity and the only services provided by that charity are free and the charity's services are not commissioned by the NHS or a local authority.

## References

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

#### Regulation 11 Appointment of manager

(1) The registered provider must appoint an individual to manage the establishment or agency if—

- (a) there is no registered manager in respect of the establishment or agency; and
- (b) the registered provider—
  - (i) is an organisation;
  - (ii) is not a fit person to manage an establishment or agency; or
  - (iii) is not, or does not intend to be in full-time day to day charge of the establishment or agency.

(2) If the registered provider appoints a person to manage the establishment or agency, the registered provider must forthwith give notice to the appropriate office of the registration authority of—

- (a) the name of the person so appointed; and
- (b) the date on which the appointment is to take effect.

(3) If the registered provider is to manage the establishment or agency he or she must forthwith give notice to the appropriate office of the registration authority of the date on which such management is to begin.

#### Regulation 12 Fitness of manager

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

(2) A person is not fit to manage an establishment or agency unless—

- (a) the person is of suitable integrity and good character to manage the establishment or agency;
- (b) having regard to the size of the establishment or agency, the statement of purpose and the number and needs of the patients—
  - (i) the person has the qualifications, skills and experience necessary to manage the establishment or agency; and
  - (ii) the person is physically and mentally fit to do so; and
- (c) full and satisfactory information or documentation, as the case may be, is available in relation to the person in respect of each of the matters specified in paragraphs 1, 2 and 4 to 8 of Schedule 2.

(3) Where a person manages more than one establishment or agency he or she must spend sufficient time at each establishment or agency to ensure that the establishment or agency is managed effectively.

**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.