



Health and Social Care (Quality and Engagement) (Wales) Act 2020

2020 asc 1

An Act of the National Assembly for Wales to make provision for a duty to secure improvement in the quality of health services provided under or by virtue of the National Health Service (Wales) Act 2006; for a duty of candour in respect of health services provided by or for NHS bodies; for the Citizen Voice Body for Health and Social Care, Wales; about the constitution of NHS trusts; and for connected purposes. [1 June 2020]

Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:

PROSPECTIVE

PART 1

OVERVIEW

1 Overview of this Act

In this Act—

- (a) Part 2 imposes requirements in respect of improvement in the quality of health services;
- (b) Part 3 makes provision for and about a duty of candour in respect of health services;
- (c) Part 4 establishes, and makes provision about the functions of, the Citizen Voice Body for Health and Social Care, Wales;
- (d) Part 5 makes provision about the constitution of NHS trusts; for minor and consequential amendments to other legislation; and contains supplementary provision about this Act (including about the procedure for making regulations under the Act).

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health and Social Care (Quality and Engagement) (Wales) Act 2020. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

PART 2

IMPROVEMENT IN HEALTH SERVICES

2 Quality in the provision of health services

- (1) The 2006 Act is amended as follows.
- (2) In Part 1 (promotion and provision of the health service in Wales), after section 1 (Welsh Ministers' duty to promote health services) insert—

“1A Welsh Ministers' duty to secure quality in health services

- (1) The Welsh Ministers must exercise their functions in relation to the health service with a view to securing improvement in the quality of health services.
 - (2) For the purposes of this section—
 - “health services” means any services provided or secured in accordance with this Act;
 - “quality” includes, but is not limited to, quality in terms of—
 - (a) the effectiveness of health services,
 - (b) the safety of health services, and
 - (c) the experience of individuals to whom health services are provided.
 - (3) The Welsh Ministers must publish an annual report on the steps they have taken to comply with the duty in subsection (1).
 - (4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.
 - (5) The Welsh Ministers must lay a copy of the report before the National Assembly for Wales.”
- (3) In Chapter 1 of Part 2 (health service bodies: Local Health Boards), after section 12 (functions of Local Health Boards) insert—

“12A Local Health Boards' duty to secure quality in health services

- (1) Each Local Health Board must exercise its functions with a view to securing improvement in the quality of health services.
- (2) For the purposes of this section—
 - “health services” means any services provided or secured in accordance with this Act;
 - “quality” includes, but is not limited to, quality in terms of—
 - (a) the effectiveness of health services,
 - (b) the safety of health services, and

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(c) the experience of individuals to whom health services are provided.

(3) Each Local Health Board must publish an annual report on the steps it has taken to comply with the duty in subsection (1).

(4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.

(5) The Welsh Ministers must issue guidance to Local Health Boards in relation to the requirements imposed by subsections (1) and (3).

(6) The guidance must, in particular, include guidance about—

- (a) the evidence to be used in support of an assessment required by this section, and
- (b) the conduct of such an assessment.

(7) Each Local Health Board must have regard to guidance issued under subsection (5).”

(4) In Chapter 2 of Part 2 (health service bodies: NHS trusts), after section 20 (general duty of NHS trusts) insert—

“20A Duty of NHS trusts to secure quality in health services

(1) Each NHS trust must exercise its functions with a view to securing improvement in the quality of health services.

(2) For the purposes of this section—

“health services” means any services provided or secured in accordance with this Act;

“quality” includes, but is not limited to, quality in terms of—

- (a) the effectiveness of health services,
- (b) the safety of health services, and
- (c) the experience of individuals to whom health services are provided.

(3) Each NHS trust must publish an annual report on the steps it has taken to comply with the duty in subsection (1).

(4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.

(5) The Welsh Ministers must issue guidance to NHS trusts in relation to the requirements imposed by subsections (1) and (3).

(6) The guidance must, in particular, include guidance about—

- (a) the evidence to be used in support of an assessment required by this section, and
- (b) the conduct of such an assessment.

(7) Each NHS trust must have regard to guidance issued under subsection (5).”

(5) In Chapter 3 of Part 2 (health service bodies: Special Health Authorities), after section 24 (exercise of health service functions by Special Health Authorities) insert—

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“24A Duty of Special Health Authorities to secure quality in health services

- (1) Each Special Health Authority must exercise its functions with a view to securing improvement in the quality of health services.
- (2) For the purposes of this section—
 - “health services” means any services provided or secured in accordance with this Act;
 - “quality” includes, but is not limited to, quality in terms of—
 - (a) the effectiveness of health services,
 - (b) the safety of health services, and
 - (c) the experience of individuals to whom health services are provided.
- (3) Each Special Health Authority must publish an annual report on the steps it has taken to comply with the duty in subsection (1).
- (4) The report must include an assessment of the extent of any improvement in outcomes achieved by virtue of those steps.
- (5) The Welsh Ministers must issue guidance to Special Health Authorities in relation to the requirements imposed by subsections (1) and (3).
- (6) The guidance must, in particular, include guidance about—
 - (a) the evidence to be used in support of an assessment required by this section, and
 - (b) the conduct of such an assessment.
- (7) Each Special Health Authority must have regard to guidance issued under subsection (5).
- (8) This section does not apply in relation to a cross-border Special Health Authority (within the meaning of section 8A(5)).”

PROSPECTIVE

PART 3

DUTY OF CANDOUR

Application of the duty

3 When the duty of candour applies

- (1) The duty of candour comes into effect in relation to an NHS body if it appears to the body that both of the following conditions are met.
- (2) The first condition is that a person (the “service user”) to whom health care is being or has been provided by the body has suffered an adverse outcome.

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- (3) The second condition is that the provision of the health care was or may have been a factor in the service user suffering that outcome.
- (4) For the purpose of the first condition a service user is to be treated as having suffered an adverse outcome if the user experiences, or if the circumstances are such that the user could experience, any unexpected or unintended harm that is more than minimal.

Procedural and other requirements

4 Duty of candour procedure

- (1) Regulations must provide for a procedure (the “candour procedure”) to be followed by an NHS body in relation to which the duty of candour has come into effect.
- (2) The regulations must require an NHS body, as part of the candour procedure—
 - (a) on first becoming aware that the duty of candour has come into effect, to give notification of this in accordance with the regulations to the service user concerned or someone acting on the service user's behalf;
 - (b) to notify a person mentioned in paragraph (a), in accordance with the regulations, of—
 - (i) the identity of a person who has been nominated by the body as a point of contact for the service user in respect of the candour procedure;
 - (ii) any further enquiries carried out by the body in respect of the circumstances in which the duty of candour came into effect.
- (3) The regulations must also make provision—
 - (a) for an apology to be offered by the body;
 - (b) in connection with the provision of support to a service user given notification under subsection (2)(a);
 - (c) about record-keeping.
- (4) The regulations may make any other provision in respect of the candour procedure that the Welsh Ministers consider appropriate.

5 Primary care providers: duty to prepare report

- (1) As soon as practicable after the end of each financial year, a primary care provider must prepare a report under this section.
- (2) The report must state whether, during the reporting year, the duty of candour has come into effect in respect of the provision of health care by the primary care provider.
- (3) If the duty of candour has come into effect during the reporting year, the report must—
 - (a) specify how often this has happened during the reporting year,
 - (b) give a brief description of the circumstances in which the duty came into effect, and
 - (c) describe any steps taken by the provider with a view to preventing similar circumstances from arising in future.
- (4) If during the same financial year the primary care provider has provided health care on behalf of two or more Local Health Boards, a separate report is to be prepared under this section in respect of each of those bodies.