
WELSH STATUTORY INSTRUMENTS

2016 No. 1099 (W. 263)

SOCIAL CARE, WALES

The Social Care Wales (Constitution of Panels: Prescribed Persons) Regulations 2016

<i>Made</i>	- - - -	<i>15 November 2016</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>22 November 2016</i>
<i>Coming into force</i>	- -	<i>3 April 2017</i>

The Welsh Ministers, in exercise of the powers conferred by sections 174(5)(b) and 187(1)(b) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Social Care Wales (Constitution of Panels: Prescribed Persons) Regulations 2016.

(2) These Regulations come into force on 3 April 2017.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Regulation and Inspection of Social Care (Wales) Act 2016;

“fitness to practise panels” (“*paneli addasrwydd i ymarfer*”) has the meaning given in section 174(1)(b) of the Act;

“interim orders panels” (“*paneli gorchmynion interim*”) has the meaning given in section 174(1)(c) of the Act;

“matter” (“*mater*”) means the subject or issue in respect of which a panel established under section 174(1) of the Act is exercising any function;

“registered person” (“*person cofrestredig*”) has the meaning given in section 164 of the Act;

“registration appeals panels” (“*paneli apelau cofrestru*”) has the meaning given in section 174(1)(a) of the Act;

“relevant body” (“*corff perthnasol*”) means—

- (a) the Education Workforce Council(2);
- (b) the Northern Ireland Social Care Council(3);
- (c) the Scottish Social Services Council(4);
- (d) the National College for Teaching and Leadership(5);
- (e) a body responsible for the regulation of a profession to which section 60 of the Health Act 1999(6) (regulation of health professions, social workers, other care workers etc.) applies(7);
- (f) a body outside the United Kingdom which is responsible for the regulation of activities which would, in Wales, be regulated by SCW(8).

Prescribed persons – registration appeals panels

3. A person specified in Schedule 1 is prescribed(9) for the purposes of section 174(5)(b) of the Act to the extent that in—

- (a) paragraph 1 of Schedule 1 the person may not be a member of a registration appeals panel;
- (b) paragraph 2 of Schedule 1 the person may not be a member of a registration appeals panel to which an application or appeal relating to a particular matter is referred.

Prescribed persons – fitness to practise panels

4. A person specified in Schedule 2 is prescribed for the purposes of section 174(5)(b) of the Act to the extent that in—

- (a) paragraph 1 of Schedule 2 the person may not be a member of a fitness to practise panel;
- (b) paragraph 2 of Schedule 2 the person may not be a member of a fitness to practise panel to which a particular matter is referred.

Prescribed persons – interim orders panels

5. A person specified in Schedule 3 is prescribed for the purposes of section 174(5)(b) of the Act to the extent that in—

- (a) paragraph 1 of Schedule 3 the person may not be a member of an interim orders panel;
- (b) paragraph 2 of Schedule 3 the person may not be a member of an interim orders panel to which a particular matter is referred.

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- (2) The Education Workforce Council is established in accordance with section 2 of the Education (Wales) Act 2014 (anaw 5).
 - (3) The Northern Ireland Social Care Council is established in accordance with section 1 of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3).
 - (4) The Scottish Social Services Council is established in accordance with section 43 of the Regulation of Care (Scotland) Act 2001 (asp 8).
 - (5) The National College for Teaching and Leadership is an executive agency of the Department for Education.
 - (6) 1999 c. 8.
 - (7) These bodies are—
 - (i) the General Chiropractic Council,
 - (ii) the General Dental Council,
 - (iii) the General Medical Council,
 - (iv) the General Optical Council,
 - (v) the General Osteopathic Council,
 - (vi) the General Pharmaceutical Council,
 - (vii) the Health and Care Professions Council,
 - (viii) the Nursing and Midwifery Council.
 - (8) See section 67(3) of the Act for the definition of “SCW”.
 - (9) See section 189 of the Act for the definition of “prescribed”.

15 November 2016

Rebecca Evans
Minister for Social Services and Public Health,
under authority of the Cabinet Secretary for
Health, Well-being and Sport, one of the Welsh
Ministers

SCHEDULE 1

Regulation 3

Prescribed persons – registration appeals panels

- 1.—(1) A person involved for the time being in an investigation under section 125 of the Act.
- (2) A person appointed for the time being as—
 - (a) an assessor or examiner, or
 - (b) a legal or other adviser,to the registration appeals panel.

- 2.—(1) Where a registration appeals panel is considering an application in accordance with section 98 or 99, or an appeal in accordance with section 101 of the Act, a person who—
 - (a) has at any time been appointed to give preliminary consideration under section 119 of the Act to a matter may not be a member of the registration appeals panel to which an application relating to the matter is referred;
 - (b) has at any time been involved in an investigation under section 125 of the Act in relation to a matter may not be a member of a registration appeals panel to which an application relating to the matter is referred;
 - (c) is or has been a member of an interim orders panel whose proceedings related to a matter may not be a member of the registration appeals panel to which an application or appeal relating to the matter is referred;
 - (d) is or has been appointed as—
 - (i) an assessor or examiner, or
 - (ii) a legal or other adviser,to an interim orders panel whose proceedings related to a matter may not be a member of the registration appeals panel to which an application or appeal relating to the matter is referred;
 - (e) is or has been a member of fitness to practise panel whose proceedings related to a matter may not be a member of the registration appeals panel to which an application relating to the matter is referred;
 - (f) is or has been appointed as—
 - (i) an assessor or examiner, or
 - (ii) a legal or other adviser,to a fitness to practise panel whose proceedings related to a matter may not be a member of the registration appeals panel to which an application relating to the matter is referred.
- (2) Where the circumstances in sub-paragraph (3) apply, a person who has at any time considered or adjudicated upon a question or issue on behalf of a relevant body may not be a member of the registration appeals panel to which an application or appeal relating to the matter is referred.
- (3) The circumstances are—
 - (a) the application or appeal is made by a registered person who is also registered with the relevant body; and
 - (b) the relevant body has considered or adjudicated upon a question or issue which relates to the registered person’s registration with that body and which also relates to the matter.

SCHEDULE 2

Regulation 4

Prescribed persons – fitness to practise panels

- 1.—(1) A person involved for the time being in an investigation under section 125 of the Act.
- (2) A person appointed for the time being—
- (a) an assessor or examiner, or
 - (b) a legal or other adviser,
- to the fitness to practise panel.
- 2.—(1) A person who has at any time been appointed to give preliminary consideration under section 119 of the Act to a matter may not be a member of the fitness to practise panel to which the matter is referred.
- (2) A person who has at any time been involved in an investigation under section 125 of the Act in relation to a matter may not be a member of the fitness to practise panel to which the matter is referred.
- (3) A person who is or has been a member of an interim orders panel whose proceedings related to a matter may not be a member of the fitness to practise panel to which the matter is referred.
- (4) A person who is or has been appointed as—
- (a) an assessor or examiner, or
 - (b) a legal or other adviser,
- to an interim orders panel whose proceedings related to a matter may not be a member of the fitness to practise panel to which the matter is referred.
- (5) Where the circumstances in sub-paragraph (6) apply, a person who has at any time considered or adjudicated upon a question or issue on behalf of a relevant body may not be a member of the fitness to practise panel to which the matter is referred.
- (6) The circumstances are—
- (a) the matter relates to a registered person who is also registered with a relevant body; and
 - (b) the relevant body has considered or adjudicated upon a question or issue which relates to the registered person's registration with the that body and which also relates to the matter.

SCHEDULE 3

Regulation 5

Prescribed persons – interim orders panels

- 1.—(1) A person involved for the time being in an investigation under section 125 of the Act.
- (2) A person appointed for the time being—
- (a) an assessor or examiner, or
 - (b) a legal or other adviser,
- to the interim orders panel.
- 2.—(1) A person who has at any time been appointed to give preliminary consideration under section 119 of the Act to a matter may not be a member of the interim orders panel to which the matter is referred.

(2) A person who has at any time been involved in an investigation under section 125 of the Act in relation to a matter may not be a member of the interim orders panel to which the matter is referred.

(3) Where the circumstances in sub-paragraph (4) apply, a person who has at any time considered or adjudicated upon a question or issue on behalf of a relevant body may not be a member of the interim orders panel to which the matter is referred.

(4) The circumstances are—

- (a) the matter relates to a registered person who is also registered with a relevant body; and
- (b) the relevant body has considered or adjudicated upon a question or issue which relates to the registered person's registration with that body and which also relates to the matter.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Care Council for Wales (“the Council”) was established by Part 4 of the Care Standards Act 2000 for the purposes of promoting high standards of conduct and practise among social care workers and promoting high standards in their training.

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) renames the Council as Social Care Wales (“SCW”), restates and modifies SCW's original functions and confers additional functions.

Section 174 of the Act requires SCW to make rules to establish registration appeals panels, fitness to practise panels and interim order panels. Section 174(5)(a) of the Act contains a list of persons who may not be members of a panel.

These Regulations are made under section 174(5)(b) of the Act, which gives Welsh Ministers the power to prescribe additional persons who may not be members of a panel.

Regulation 3 and paragraph 1 of Schedule 1 prescribe, for the purposes of section 174(5)(b) of the Act, the persons who may not be members of any registration appeals panel; paragraph 2 of Schedule 1 prescribes additional persons who may not be members of a registration appeals panel to which a particular matter is referred. Regulations 4 and 5 and Schedules 2 and 3 respectively make similar provision in relation to fitness to practise panels and interim orders panels.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.