



Gofal Cymdeithasol **Cymru**
Social Care **Wales**

THE SOCIAL CARE WALES (PANEL CONSTITUTION) RULES 2020

APRIL 2020

The regulation of the registration and fitness to practise of the social care workforce by Social Care Wales is governed by three types of legal documents, which are **all** applicable to the registration and fitness to practise of registered persons:

- **Regulation and Inspection of Social Care (Wales) Act 2016 (the Act);**
- **Welsh Government Regulations;**
- **Social Care Wales' suite of Registration Rules and Fitness to Practise Rules.**

Neither the content of the Act nor the Regulations are contained in these Rules. You should therefore read the content of the Act and the Regulations in conjunction with the Rules to provide a comprehensive understanding of the registration and fitness to practise procedures.

The Act is available at: <http://www.legislation.gov.uk/anaw/2016/2/contents/enacted>.

The Regulations are listed below and can be found at - <http://www.legislation.gov.uk/wsi>

- The Social Care Wales (Extension of Meaning of “Social Care Worker”) Regulations 2016
- The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2016
- The Social Care Wales (Content of Register) Regulations 2016
- The Social Care Wales (List of Persons Removed from the Register) Regulations 2016
- The Social Care Wales (Constitution of Panels: Prescribed Persons) Regulations 2016
- The Social Care Wales (Proceedings before Panels) Regulations 2016
- The Social Care Wales (Proceedings before Panels) (Amendment) Regulations 2017
- The Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2018
- Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2020

The Social Care Wales rules are available at:
<https://socialcare.wales/collections/social-care-wales-2017-rules>

Social Care Wales, in exercise of its powers under sections 73(2) and (4), and 174(1),(6),(7),(8) and (9) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) and of all other powers enabling Social Care Wales in that behalf, and after consulting in accordance with section 75 of the Act, hereby makes the following Rules:

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PART I

INTRODUCTION

Citation, commencement and revocation

1. (1) These Rules may be cited as the Social Care Wales (Panel Constitution) Rules 2020 and shall come into force on 1 April 2020.
- (2) The Care Council for Wales (Registration) Rules 2015(b) (“the 2015(b) Rules”) are hereby revoked.
- (3) The Care Council for Wales (Fitness to Practise) Rules 2014 (“the 2014 Rules”) are hereby revoked save that the 2014 Rules shall continue to apply to the constitution of a panel in relation to any hearing under the 2014 rules.
- (4) The Social Care Wales (Panel Constitution) Rules 2017 (“the 2017 Rules”) are hereby revoked save that:
 - (a) the 2017 Rules shall continue to apply in relation to any application for registration, renewal or returning to the register in respect of which a hearing was commenced after 3 April 2017 but not completed before 1 April 2020.
 - (b) the 2017 Rules shall continue to apply in relation to any hearing to which the 2014 Rules do not apply which commenced on or after 3 April 2017 but not completed before 1 April 2020.

Interpretation

2. (1) In these Rules, unless the context otherwise requires:
 - “**Act**” means the Regulation and Inspection of Social Care (Wales) Act 2016;
 - “**Care Council**” means the Health and Care Professions Council, the Northern Ireland Social Care Council or the Scottish Social Services Council;
 - “**case management panel**” means a panel of one or three panel members, advised by a legal adviser, established to undertake a case management meeting under Part II of these Rules;
 - “**clerk**” means the person responsible for the administrative arrangements for the hearing or meeting as defined in these rules;
 - “**fitness to practise hearing**” means a hearing before a fitness to practise panel in fitness to practise proceedings;
 - “**fitness to practise panel**” means a panel established in accordance with rule 3(1) (c) to:

- (a) make determinations in relation to the fitness of persons registered in the register to practise as social care workers;
- (b) to suspend, or attach conditions to, a person's registration in the register pending a determination by a registration appeals panel or fitness to practise panel;

“in camera” means in the absence of the parties and their representatives, and the public;

“interim orders panel” means a panel established in accordance with rule 3(1)(b) to suspend, or attach conditions to, a person's registration in the register pending a determination by a registration appeals panel or fitness to practise panel;

“Interim Orders Rules” means the Social Care Wales (Interim Orders) Rules 2017 or the Social Care Wales (Interim Orders) Rules 2020, whichever version is applicable;

“lay person” means a person who is not, and has not within five years of appointment to a panel, been:

- (a) a social worker;
- (b) engaged in any of the descriptions of social care worker contained in sections 79(1) (b) – (d) and 79(3) (a) to (l) of the Act (as extended by regulation 3 of the Social Care Wales (Extension of meaning of 'Social Care Worker') Regulations 2016);
- (c) involved in the training, education, appointment, employment, supply, supervision, monitoring or representation of social care workers; or
- (d) a social work student;

“legal adviser” means a person with a ten-year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 who is entitled to practise law in England and Wales appointed by Social Care Wales in accordance with rule 8;

“medical adviser” means a medical practitioner, registered under the Medical Act 1983, appointed by Social Care Wales in accordance with rule 9;

“panel” means a Social Care Wales registration appeals panel, interim orders panel or a fitness to practise panel constituted in accordance with section 174 of the Act before which the proceedings are brought;

“register” means the register kept by Social Care Wales under section 80 of the Act;

“registered person” means the registered person in respect of whom the referral has been made;

“registration” means the entry in the register relating to a particular registered person;

“registration appeals panel” means a panel established in accordance with rule 3(1)(a) to make determinations under Part 4 of the Act in relation to initial registration in, remaining on and being restored to, the register;

“Social Care Wales” means the body corporate known as Social Care Wales and which was previously known as the Care Council for Wales;

“social care worker” means, for the purposes of these Rules, any person who falls within any of the following descriptions of social care worker:

- (a) a person who manages a place of work at or from which a regulated service is provided; or
- (b) a person who in the course of their employment with a service provider, provides care and support to any person in Wales in connection with –
 - (i) a care home service within the meaning of Part 1 of the Act which is provided wholly or mainly to children, or
 - (ii) a secure accommodation service within the meaning of paragraph 2 of Schedule 1 to the Act provided by that provider;
- (c) a person who is— (i) employed (whether as an employee or a worker), or (ii) engaged under a contract for services, by a service provider of a domiciliary support service in order to provide care and support to a person referred to in paragraph 8(1) of Schedule 1 to the Act.
- (d) who is employed (whether as an employee or as a worker), or engaged under a contract for services in order to provide care and support by a service provider that provides—
 - (i) a care home service provided wholly or mainly for adults, or
 - (ii) a residential family centre service.

“social worker” has the meaning ascribed by section 79(1) (a) of the Act, namely a person who engages in relevant social work in Wales;

“social work student” means a person participating in a course in Wales approved by the Social Care Wales under section 114(1) (a) of the Act for persons wishing to become social workers or a person participating in a social work qualifying programme elsewhere in the UK approved by a Care Council who are or wish to become registered in the social worker part of the register.

(2) In these Rules, unless the context otherwise requires:

- (a) words in the singular include the plural, and words in the plural include the singular;
- (b) any reference to a numbered rule or part is a reference to the rule or part bearing that number in these rules, as the case may be;
- (c) any reference in a rule or a part to a numbered paragraph, is a reference to the paragraph bearing that number in that rule or part;

- (d) any reference in a paragraph in a rule or a part to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that rule or part.

PART II

ESTABLISHMENT AND CONSTITUTION OF PANELS

Establishment of panels

3. (1) The following panels shall be established:
 - (a) registration appeals panels;
 - (b) interim orders panels;
 - (c) fitness to practise panels.

Membership of panels

4. (1) Social Care Wales shall maintain a pool of members from which members of the registration appeals panel, interim orders panel, fitness to practise panel and case management panel for a particular case shall be appointed.
- (2) Members and chairs of panels shall be appointed for a period not exceeding four years.
- (3) Members and chairs of panels may be re-appointed for a further period not exceeding four years, which period may begin on expiry of the initial four-year period or at a later date, as Social Care Wales may determine.

Members' private interests

5. (1) Social Care Wales shall establish, maintain and make publicly available a register of panel members' private interests.

Removal of members from the pool

6. (1) Social Care Wales shall remove from the pool of members a panel member:
 - (a) whose term of office has come to an end and who is not re-appointed for a further period;
 - (b) who resigns in writing to Social Care Wales.
- (2) Social Care Wales may suspend and/or remove from the pool of members a panel member on the ground of gross misconduct.

Constitution and quorum of panels

7. (1) A case management panel convened to conduct a case management meeting under rule 5(1) of the Interim Orders Rules and a case management panel convened to conduct a case management meeting under rule 5(1) of the Fitness to Practise Rules may consist of one or three members.

- (2) Save as provided in paragraph (1), a panel shall sit with either five or three members, including a member appointed to chair the panel and the provisions of paragraphs (3) to (6) shall apply.
- (3) The quorum of each panel shall be three.
- (4) Each panel shall include at least one lay person as a member.
- (5) The Chair shall be a lay person.
- (6) Social Care Wales shall ensure that a panel includes a member who has experience or understanding of social work or the field of social care work practised by the applicant, appellant or registered person whose case is under consideration unless the applicant, appellant or registered person is registered only on the basis that he or she is undertaking a course in relevant social work approved by Social Care Wales under section 114(1) (a) of the Act.
- (7) No member of a registration appeals panel shall sit as such to consider an applicant, appellant or registered person's case, if that member:
 - (a) has knowledge of the facts of the case, prior to the consideration of the matter by the panel; or
 - (b) has sat on a panel which previously decided a case concerning the applicant, appellant or registered person.
- (8) No member of an interim orders panel shall sit as such to consider a registered person's case, if that member has previously been a member of a registration appeals panel or a fitness to practise panel considering a case involving the registered person.
- (9) No member of any fitness to practise panel shall sit as such on the hearing of a registered person's case, if that member has previously been a member of an interim orders panel or a registration appeals panel considering a case involving the registered person.
- (10) Prior to considering a case, panel members shall declare any private interests which might reasonably be thought by others to have any influence in the exercise of the functions of the panel.

Legal adviser

8. (1) Social Care Wales will appoint a legal adviser who shall be present at the sitting of each panel.
- (2) The legal adviser shall also be present during the deliberations of each panel.
- (3) The role of the legal adviser shall be to advise each panel on questions of law, and to ensure that proceedings before each panel are conducted fairly. To this end, the legal adviser shall inform a panel immediately where in his or her opinion there is an irregularity in the conduct of proceedings before that panel.

- (4) Any advice given by the legal adviser *in camera* shall subsequently be repeated before the parties.
- (5) Where the proceedings of a panel are held in private, that panel shall maintain a record of any advice tendered by the legal adviser.
- (6) Except where a panel determines a case without oral evidence or submissions, the advice of the legal adviser shall be given in the presence of the parties.
- (7) The parties shall have the opportunity to make representations on the contents of the advice given by the legal adviser. The legal adviser will then assess whether the advice tendered requires to be altered in the light of the representations made by the parties and will advise the panel accordingly, in the presence of the parties.
- (8) The legal adviser shall not participate in the decision making of a panel considering a case and shall not be entitled to vote.
- (9) The legal adviser shall, if so authorised by Social Care Wales, conduct a pre-hearing review in accordance with rule 3 of the Fitness to Practise Rules.

Medical adviser

9. (1) Social Care Wales may appoint a medical adviser to advise a panel where it appears to Social Care Wales that an applicant's, appellant's or registered person's fitness to practise may be impaired by reason of that person's physical or mental health.
- (2) The medical adviser may be present during the deliberations of each panel.
- (3) The role of the medical adviser shall be to advise the panel on any issues that may arise in relation to an applicant's, appellant's or registered person's physical and mental fitness to perform the whole or part of the work of a social worker or social care worker or social work student (as the case may be).
- (4) Any advice given by the medical adviser *in camera* shall subsequently be repeated before the parties.
- (5) Except where a panel determines a case without oral evidence or submissions, the advice of the medical adviser shall be given in the presence of the parties.
- (6) The parties shall have the opportunity to make representations on the advice given by the medical adviser. Where representations have been made on the contents of the advice given by the medical adviser, the medical adviser shall consider whether the advice should be amended and shall advise the panel accordingly, in the presence of the parties.
- (7) The medical adviser shall not participate in the decision making of a panel and shall not be entitled to vote.

Clerk

10. (1) Each panel shall be assisted by a clerk.
- (2) The clerk shall be responsible for the administrative arrangements for the hearing or meeting and shall keep a record of decisions made by the panel, and the reasons for them.
- (3) The clerk shall not participate in the decision making of a panel and shall not be entitled to vote.

Signed on behalf of Social Care Wales

A handwritten signature in black ink, appearing to read 'Mick Giannasi', with a horizontal line underneath.

**Mick Giannasi
Chair Social Care Wales**

24/02/20