



**CYFARFOD BWRDD / BOARD MEETING: 22.06.17**

<b>EITEM/ITEM:</b>	5
<b>TEITL/TITLE:</b> SCW/17/11	Draft consultation on regulatory matters June 2017
<b>AWDUR/AUTHOR:</b>	Clare Taggart (Policy Lead)
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<b>ATODIADAU/APPENDICIES:</b>	
<b>Appendix 1</b>	Table showing fee comparisons for other care councils
<b>Appendix 2</b>	Draft Consultation document
<b>Appendix 3</b>	Equalities Impact Assessment (pre-consultation)
<b>TRAFODWYD YN FLAENOROL YN/ITEM PREVIOUSLY DISCUSSED AT:</b>	
	Social Care Wales Executive Management Team meetings of 15.5.17, 22.05.17 and 05.06.17
<b>PENDERFYNIAD / DECISION:</b>	
	The Board is invited <b>consider</b> and <b>approve</b> the consultation document.

## Draft consultation on regulatory matters June 2017

### 1. Purpose of report and recommendation

- 1.1 Section 75 of the Regulation and Inspection of Social Care (Wales) Act 2016 (the Act) requires us to consult the care sector about proposed changes to our rules, codes of practice and guidance. Social Care Wales would like to make changes to our fees, qualification requirements, code of practice for employers and fitness to practise rules. We are therefore required to consult the sector.
- 1.2 We would like the Board to approve the consultation document that we have prepared for this purpose and we have set out the basis of our proposals for change below. We want the consultation to run for 12 weeks from 3 July 2017 to 25 September 2017.

### 2. Changes to our fee structure – basis of proposals

- 2.1 Section 74 of the Act gives us the authority to ask for registration fees from people who want to join our register and to set them at a level that we consider appropriate. Our aim is to make the fees affordable, but we have to cover the difference between the actual costs of registration and the subsidy offered by the Welsh government and this limits our discretion over what we charge.
- 2.2 Our initial registration fees, renewal fees and annual fees have not changed since the Register of Social Care Workers (the Register) opened in 2003 and they are lower than those of other social care regulators. Although digital processing has helped us to reduce the costs of registration, income from fees is still insufficient to cover costs. This is one of the reasons that we need to change our fee structure; the other reason is that we need to set the fees for domiciliary care workers before we open the Register to this group in 2018.
- 2.3 We currently have around 11,200 registered persons and we estimate that we could receive as many as 50,000 applications from 2018 onwards. This is because the Register will open to domiciliary care workers in 2018 and adult care home workers in 2020. If we do not change our fee structure, it will be difficult for us to meet the main objective that the Welsh Government has set for us in the Act – to protect, promote and maintain the safety and well-being of the public in Wales.

The proposed changes to our fee structure are shown below and a table showing the fees of the Scottish, Northern Irish and English regulators can be found in **Appendix 1**.

Fee Type	Current fee level	Proposed new fee level (Awaiting Ministerial View)
Social Worker (application, renewal and annual)	£30	
Social Worker – Non-UK Qualified (application)	£125	
Social Care Manager (application, renewal, annual)	£30	
Social Care Worker	£10	

(application, renewal and annual)		
Social Work Student (application and annual)	£10	
Return to Practise	£125	

### **3. Changes to our Code of Practice for Persons Employing Social Care Workers – basis of proposals**

- 3.1 Section 112 of the Act requires Social Care Wales to prepare and, from time to time publish, codes of practice. These codes set out the standards of conduct and practice expected of social care workers and those employing or seeking to employ them. The codes are regulatory tools that we use, along with a package of legislation and rules, to support best practice in the sector.
- 3.2 The existing code of practice for employers, the Care Council for Wales Code of Practice for Employers, has been in place since 2002 and, although it has been reviewed and revised during this time, we need to update it again to reflect the Act, the Social Services and Well-being (Wales) Act 2014 and changes within the sector.
- 3.3 We have developed the Code of Practice for Persons Employing Social Care Workers (the Code) in partnership with Care and Social Services Inspectorate Wales (CSSIW) and it will replace the existing employers' code. It is based on our existing code, but also takes into account a review of the codes of other regulators, such as the Scottish Social Services Council.
- 3.4 We carried out limited testing of the Code with employers and the final draft reflects their feedback. We obtained legal advice during the drafting process and CSSIW did the same. The draft Code can be found in **Appendix 2** of the consultation document.

### **4. Changes to our qualification requirements – basis of proposals**

- 4.1 It is clear from recent social care legislation that the Welsh Government sees qualifications as an essential part of its efforts to professionalise the care sector. Furthermore, it has identified care and support at home as a priority for improvement - having a workforce with the right skills is critical to such improvement and it is clear that there are many social care workers who would welcome opportunities for professional development.
- 4.2 Section 83 of the Act requires us to ensure that social care workers are 'appropriately qualified'. As the register grows, it will be increasingly important for us to ensure that those who are registered are suitably qualified, especially as we can bring fitness to practise proceedings against those who fail to meet our standards.
- 4.3 Section 84 of the Act authorises us to determine what is meant by appropriately qualified and we are, therefore, required to set the training and qualification requirements for each group of workers on the register. We also have the power to regulate social care training.

- 4.4 We have an opportunity to work with Qualifications Wales to strengthen social care qualifications and develop an appropriate framework for the new groups that will be coming on to the register. This will benefit social care workers, people who use care services and employers. It will also help us to meet the objectives set out for us in the Act. Details of the changes can be found in section 5 of the consultation document.

## 5. Changes to the Fitness to Practise Rules 2017 – basis of proposals

- 5.1 There are two areas of our fitness to practise rules that we would like to change. The first change relates to direct referrals to fitness to practise panels and the second concerns the process for applying for a witness summons.
- 5.2 The Act permits us to make direct referrals to fitness to practise panels where there are relevant: cautions; convictions; decisions by other regulatory bodies and entries in a barred list. Our current rules do not take full advantage of this provision and we have to use a lengthier process than necessary for this type of referral. This compromises our ability to protect the public and we need to change the rules accordingly.
- 5.3 The *Social Care Wales (Proceedings before Panels) (Amendment) Regulations 2017* have changed the process for issuing witness summonses: requests for witness summonses will be made to the County Court or the High Court rather than the Care Standards Tribunal. We want to amend our rules to reflect this administrative change.

## 6. Equalities

- 6.1 We did not identify any significant issues in our equalities impact assessment. The initial Equalities Impact Assessment can be found in **Appendix 3**.

## 7. Recommendation

- 7.1 Members are invited to **consider** and **approve** the consultation document.

### Comparison of fees table

SCW - Social Care Wales

NISCC – Northern Ireland Social Care Council

SSSC – Scottish Social Services Council

HPCPC – Health and Care Professions Council

Fee Type	Council			
	SCW	NISCC	SSSC	HPCPC
Social Worker (application, renewal and annual)	<b>£30</b>	<b>£65</b>	<b>£80</b> (was £30)	£63 (scrutiny fee) plus £180 registration fee (covering first 2 years), so <b>£243</b> . Note there is a 50% discount for newly qualified social workers. Then £180 every 2 years (£90 per year)
Social Worker – Non-UK Qualified (qualification assessment)	<b>£125</b>	<b>£350</b>	<b>£320</b> for initial application and assessment. Additional fees could include £59 for PVG fee and £790 for aptitude test.	£495 plus £180 registration fee (so <b>£675</b> )
Social Worker – Non-UK Qualified (annual and renewal)	<b>£30</b>	<b>£65</b>	<b>£80</b> (was £30)	<b>£180</b> every 2 years
Social Care Manager (application, renewal and annual)	<b>£30</b>	<b>£65</b>	<b>£80</b> (was £30)	N/A
Social Care Worker (application, renewal and annual)	<b>£10</b>	<b>£30</b>	<b>£25</b> (support worker) <b>£35</b> RCCWs, School Care Accommodation Officer and Supervisor/Practitioner	N/A
Social Work Student	<b>£10</b>	<b>£20</b>	<b>£15</b>	N/A
Return to Practise	<b>£125</b>	N/A	N/A	<b>£135</b> plus £90 annual fee

## Appendix 2



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



# Consultation document

Have your say on changes to our

- fees
- qualification requirements for domiciliary care workers
- fitness to practise rules 2017
- Code of Practice for Persons Employing Social Care Workers

**Consultation closes on 25 September 2017**



Noddir gan  
**Lywodraeth Cymru**  
Sponsored by  
**Welsh Government**

## How the views and information you give us will be used

Any response you send us will be seen in full by Social Care Wales staff dealing with the issues which this consultation is about. It may also be seen by other members of staff to help plan future consultations.

We will be publishing a summary of the responses to this document. We may also publish responses in full. Normally, the name and address of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including Social Care Wales. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

## Contact details

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### Other formats:

This document is available in large text or other formats, if required. Copies are also available in Welsh.

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# Section 1- About the consultation

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## 1.1 Introduction

This consultation is about changes Social Care Wales want to make to our:

- fees
- qualification requirements
- fitness to practise rules
- Code of Practice for Persons Employing Social Care Workers.

## 1.2 Why are we making changes?

Our purpose is to protect, promote and maintain the safety and well-being of the public in Wales, as set out in section 68 of the *Regulation and Inspection of Social Care (Wales) Act 2016* (“the Act”).

- The changes are needed so we can meet the objectives set out for us in the Act by the Welsh Government.
- Unless we make the changes, we can't do what we set out to do.

## 1.3 How to take part

- The changes are explained in sections 4-7.
- Each section contains a set of questions.
- You can answer all questions, or only answer the questions most important to you.
- You can respond online at: [socialcare.wales/consultations](https://socialcare.wales/consultations)
- The consultation will run for 12 weeks between 3 July and 25 September 2017.
- It closes at 5pm on 25 September 2017. We can't consider comments received later.
- You can share this document with interested colleagues.
- If you need a copy in a different format or have any questions, please contact us at [consultations@socialcare.wales](mailto:consultations@socialcare.wales) or 0300 3033 444.

**Thank you for taking part.**

# Section 2 - About you/your organisation

## 2.1 Question 1

Are you responding to this consultation:

a) As an individual

or

b) On behalf of an organisation

If an individual, are you a/an

Adult care home manager

Adult care home worker

Social worker

Social work student

Domiciliary care manager

Domiciliary care worker

Employed by NHS Wales

Learning provider

Residential child care manager

Residential child care worker

Social care worker (not registered)

Individual using services

Carer

Member of the public

Other – please describe below

Is the organisation:

Central or devolved government

A local authority

A health sector organisation

An employer

A learning provider

Other – please describe below

Organisation name/type of work carried out:

# Section 3a - Changes to registration fees

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## 3.1 About the Register of Social Care Workers (the Register)

Section 80 of the *Regulation and Inspection of Social Care (Wales) Act 2016* (“the Act”) requires Social Care Wales to keep a register of:

- social workers
- social care workers of any other description specified by the Welsh Ministers in regulations
- visiting social workers from relevant European states.

We use the Register to help us carry out our public protection duties as set out in the Act. Only those who are suitable to work in the regulated social care sector can register and only those who are registered are allowed to work in the sector.

In this way, we help keep the public safe and improve standards for people using care services and people working in the sector.

## 3.2 The growing Register

We have around 11,200 people on our Register, but from 2018 we will open it to new groups of workers. We estimate another 50,000 people will apply to register before 2022.

- Domiciliary care workers can register from 2018 and must register from 2020.
- Adult care home workers can register from 2020 and must be registered from 2022.

In line with the aims of the Welsh Government, we want to help the sector attract and keep high quality staff and we want to achieve higher standards of care provision in Wales. We also want to improve the prospects of care workers who are looking for opportunities for professional development. Keeping a register is part of this process. It offers professional recognition for workers and reassurance for people getting care and support.

## 3.3 Why change the registration fees?

We want our registration fees to be affordable, whether it is individuals or employers paying them, but we also need to set them at realistic levels to cover the difference between the subsidy that the Welsh Government provides and the actual cost of registration.

Our initial registration fees, renewal fees and annual fees haven't changed since the Register opened in 2003. They are lower than those of other social care regulators and significantly lower than many other professional groups.

The Welsh Government grant does not fully cover the cost of regulating the workforce and the shortfall needs to be addressed through fees. Although digital processing has helped us reduce registration costs, income from fees is still not enough and will need to better reflect our costs in future.

This is one reason to change our fee structure; another is that we have to set the fees for domiciliary care workers before we open the register to them in 2018.

Section 74 of the Act gives us the authority to ask for fees in relation to:

- registration
- giving advice or assistance
- approving courses
- providing training
- copies of codes of practice
- copies of, or extracts from, the Register.

We have the power to set our fees at a level we think is appropriate. However, we are required to ask the sector if we want to make changes to our fees and, indeed, we want the views of people likely to be affected by the proposed changes so we can develop a fair and workable fee structure. We have considered the fees of other regulators to inform our proposal and the proposed fee levels are shown in section 3(b). We offer a range of payment methods and UK tax payers can claim tax relief on their registration fees.

**This is the basis of the question in section 3(b).**

# Section 3(b) – Your views on changes to registration fees

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Fee type	Current fee	Proposed fee (to be confirmed)
<b>Social worker</b> (application, renewal and annual)	£30	
<b>Social worker – non-UK qualified</b> (application)	£125	
<b>Social care manager</b> (application, renewal and annual)	£30	
<b>Social care worker</b> (application, renewal and annual)	£10	
<b>Social work student</b> (application and annual)	£10	
<b>Return to practise</b> (one-off fee for each event)	£125	

### 3.4 Question 2

Do you think the distribution of fee levels reflects the average pay levels of the different groups of workers?

Yes	<input type="text"/>
No	<input type="text"/>
Don't know	<input type="text"/>

Please use the space for any comments.

# Section 4(a) - Qualification requirements for domiciliary care workers

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## 4.1 Why change the qualification requirements?

The *Regulation and Inspection of Social Care (Wales) Act 2016* (“the Act”) and the *Social Services and Well-being (Wales) Act* show that the Welsh Government sees qualifications as an essential part of its efforts to professionalise the social care workforce. The Welsh Government has also identified care and support at home as a priority for improvement; having a workforce with the right skills, knowledge and values is critical to such improvement. This is something we emphasise in our *Care and Support at home in Wales five-year strategic plan 2017-2022*.

Section 83 of the Act requires us to make sure social care workers are ‘appropriately qualified’. As the Register grows, it will be increasingly important for us to ensure that those who are registered are suitably qualified and that their employers support them in their roles. If we allow social care workers to register with us when they are not suitably qualified, there will be a risk to the public. There will also be a risk of unfairness in our fitness to practise processes, given that we can bring proceedings against registered persons who fail to meet our standards.

Under section 84 of the Act, we decide what is meant by ‘appropriately qualified’. We are therefore required to set the training and qualification requirements for each category of social care worker and can change our requirements over time to suit the needs of the sector.

We have also been given the power to regulate social care training. This has created an opportunity for us to work with Qualifications Wales to strengthen social care qualifications and ensure we have a competent and professional workforce.<sup>1</sup> This will benefit social care workers and people who use care services. It will also help employers, who are required through regulations to ensure their workers are appropriately qualified and have a suitable induction to the profession.

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<sup>1</sup> Qualifications Wales is an independent organisation that is responsible for the regulation of non-degree qualifications and the qualifications system in Wales.

## 4.2 Proposed qualifications for the registration of domiciliary care workers

By the end of the first three-year registration period, we propose registered domiciliary care workers must achieve the qualifications identified in the sector qualification framework. The qualification framework sets out the required qualifications to meet National Minimum Standards for domiciliary care agencies. These qualifications are outlined below.

### **For those employed to work with adults in domiciliary care settings:**

- the Level 2 Diploma in Health and Social Care (Adults) Wales and Northern Ireland or
- the Level 3 Diploma in Health and Social Care (Adults) Wales and Northern Ireland or
- a predecessor qualification as specified in the Qualification Framework for the Social Care Sector in Wales.<sup>2</sup>

### **For those employed to work with children in domiciliary care settings:**

- the Level 3 Diploma in Health and Social Care (Children and Young People) Wales or
- a predecessor qualification as specified in the Qualification Framework for the Social Care Sector in Wales.<sup>3</sup>

**The *Qualification Framework for the social care sector in Wales* can be found at:**

[https://socialcare.wales/cms\\_assets/file-uploads/Qual-Framework\\_Eng-Sept-2016.pdf](https://socialcare.wales/cms_assets/file-uploads/Qual-Framework_Eng-Sept-2016.pdf)

## 4.3 The Social Care Induction Framework

For domiciliary care workers who do not already have one of the qualifications listed above, we want to use the Level 2 Award for Social Care as the initial required qualification. Currently, workers who are new to the sector, new to an organisation or new to a particular role are required to complete the Social Care Induction Framework for Wales (SCIF). The SCIF is being reviewed with a view to it becoming a shared induction framework across health and social

<sup>2</sup> Details of the qualifications for domiciliary care workers can be found on page 34 of the Qualification Framework for the Social Care Sector in Wales.

<sup>3</sup> Details of the qualifications for domiciliary care workers can be found on page 34 of the Qualification Framework for the Social Care Sector in Wales.

care. Our intention is to have the revised induction framework available for the care sector from November 2018, with implementation from April 2018.

There is currently a qualification to accompany the SCIF - the Level 2 Award for Social Care Induction (Wales) - this covers the knowledge and understanding required by workers in their first 12 weeks of employment.

We want to use Level 2 Award in Social Care Induction (Wales) as an initial requirement for registration, for people who don't have one of the qualifications listed in the Qualification Framework, to cover essential knowledge requirements. This must be completed alongside the full social care induction framework, where employers confirm competence to undertake the functions set out in the SCIF.

Where workers use the award and the induction framework to register, there will be a need for them to complete one of the listed qualifications in 4.2 within the first (three-year) period of registration.

**Information about the Level 2 Award for Social Care Induction (Wales):**

[http://www.ccwales.org.uk/qualifications-and-nos-finder/qualification.php?id=32&qualification\\_type=1&cat\\_suite=8&level=0](http://www.ccwales.org.uk/qualifications-and-nos-finder/qualification.php?id=32&qualification_type=1&cat_suite=8&level=0)

The questions in section 4(b) are about the proposed changes to the qualification requirements.

# Section 4(b) – Your views on proposed qualification requirements

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## 4.4 Question 3

Do you agree with the proposal to use the qualifications listed in the existing Qualification Framework for domiciliary care workers (as summarised above) for registration?<sup>4</sup>

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Please use the space below for any comments.

## 4.5 Question 4

a) Do you agree with our proposal that, for people who do not already hold one of the qualifications listed, we use the Level 2 Award in Social Care Induction (Wales) as an initial requirement for registration, along with completion of the full Social Care Induction Framework?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

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<sup>4</sup> Details can be found on page 34 of the Qualification Framework for the Social Care Sector in Wales. There may be some circumstances where a qualification can be deemed equivalent to one of those specified in the Qualification Framework. Social Care Wales has developed an assessment process for people who wish to register with a qualification that may be equivalent.

Please use the space below for any comments.

**b) Where workers have used the award and induction framework to register, they will need to complete one of the listed qualifications within the first three-year period of registration. Do you agree with this proposal?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

#### 4.6 Question 5

**What kind of support do you think employers and workers will need to help prepare for registration of the domiciliary care workforce – e.g. briefing sessions, practice exchange sessions?**

# Section 5(a) - Proposed changes to the Code of Practice for Employers

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## 5.1 About the Code of Practice for Employers

Section 112 of the *Regulation and Inspection of Social Care (Wales) Act 2016* (the Act) requires Social Care Wales to prepare and, from time to time, publish codes of practice. These codes set out the standards of conduct and practice expected of social care workers and those employing or seeking to employ them. The codes are regulatory tools we use, along with a package of legislation and rules, to support best practice.

The *Code of Practice for Employers of Social Care Workers* (the employers Code) is designed to make sure employers help their staff to meet the requirements of the *Code of Professional Practice for Social Care* (the Code). It is complementary to existing employers' practices and shows employers' responsibilities in terms of the regulation of the social care workforce.

## 5.2 Why are we changing the Code?

The *Code of Professional Practice for Social Care Workers* was updated in 2015 and we have no plans to change this. However, the employers' code has been in place since 2002 and we need to update it to reflect the Act, *the Social Services and Well-being (Wales) Act 2014* and changes within the sector.

The standards in the code will be enforceable by the Care and Social Services Inspectorate Wales (CSSIW) through regulations and statutory guidance. We want these standards to be relevant and achievable and this is why we are consulting the sector about the proposed changes. The Code can be found in Appendix 2.

**This is the basis of the questions in section 5(b).**

# Section 5(b) – Your views on the Code of Practice for Persons Employing Social Care Workers

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## 5.3 Question 6

The draft Code of Practice for Employers can be found in [Appendix 2](#).

Do you think the standards in the Code are reasonable and achievable for employers?

Yes	<input type="text"/>
No	<input type="text"/>
Don't know	<input type="text"/>

Please provide your comments in the space below.

## 5.4 Question 7

a) Do you think there are any gaps in the content of the employers' Code?

Yes	<input type="text"/>
No	<input type="text"/>
Don't know	<input type="text"/>

Please use the space below to tell us about any gaps.

A large, empty rectangular box with a thin black border, intended for the user to provide feedback or report any gaps in the content.

# Section 6(a) - Proposed changes to the Fitness to Practise Rules 2017

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## 6.1 What are the changes to the rules?

We have identified two areas of the fitness to practise rules that we would like to make minor changes to.

- The first change relates to direct referrals to fitness to practise panels.
- The second concerns the process for applying for a witness summons.

## 6.2 Why change the rules?

Section 121 of the *Regulation and Inspection of Social Care (Wales) Act 2016* (the Act) permits us to make rules about the circumstances under which we must refer a fitness to practise matter directly to a fitness to practise panel. To bring us into line with the Act and the way other UK social care regulators work, we want to use section 121 to authorise direct referrals to panels where there are:

- relevant criminal convictions
- relevant cautions
- inclusion in barred lists, or
- relevant decisions by other regulatory bodies.

We are currently able to refer these cases to fitness to practise panels under another section of our *Fitness to Practise Investigation Rules 2017*. However, this process is longer and less efficient than a direct referral. This affects our ability to respond to public protection issues quickly and, given the seriousness of some of the matters we deal with and our need to protect the public, it is our view that we need to change the rules. This is the basis of the first question in section 6(b).

The *Social Care Wales (Proceedings before Panels) (Amendment) Regulations 2017* have changed the process for issuing witness summonses: requests for witness summonses will be made to the County Court or the High Court rather than the Care Standards Tribunal. We want to amend our rules to reflect this administrative change. This is the basis of the second question in section 6(b).

# Section 6(b) - Your views on changes to the Fitness to Practise Rules 2017

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## 6.3 Question 8

We are changing the *Fitness to Practise Investigation Rules 2017* to allow us to make direct referrals to fitness to practise panels where the matter under investigation relates to:

- 1. a registered person’s conviction or caution in respect of a relevant criminal offence
- 2. the inclusion of a registered person in a barred list
- 3. a determination by a relevant body to the effect that a registered person’s fitness to practise is impaired.

Do you have any comments about the proposed changes?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Please use the space below for any comments.

## 6.4 Question 9

We are changing our *Fitness to Practise Rules 2017* so that requests for witness summonses will be made to the High Court or County Court, rather than the Care Standards Tribunal.

Do you have any comments about this change?

Yes

No

Don't know

Please use the space below for comments

# Appendix 1

## Circulation List for Consultation

All Social Care Wales registrants  
Welsh Government  
WLGA  
Association of Directors of Social Services  
Care and Social Services Inspectorate for Wales  
Care Forum Wales  
Carers and Parents' Forum  
Social care and health regulatory councils in England, Northern Ireland and Wales  
Older People's Commissioner for Wales – Sarah Rochira  
Children's Commissioner for Wales – Sally Holland  
Directors of Social Services  
Heads of children's services  
Heads of adult services  
Head of Social Services Directorate  
UNISON  
GMB  
Unite  
BASW  
UKHCA  
Barnardos  
Looked after children network  
Diverse Cymru  
Action for Children Cymru  
NSPCC Cymru  
Funky Dragon  
SNAP Cymru  
ABCD Cymru  
QSSC  
Voices from Care  
Training Managers  
SCWDP  
WCVA  
WEDS  
NYAS

## Appendix 2

# The Code of Practice for Persons Employing Social Care Workers (Consultation draft)

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This Code of Practice for Persons Employing Social Care Workers (the employers' Code) is published by Social Care Wales in accordance with Section 112 of the *Regulation and Inspection of Social Care (Wales) Act 2016* (the Act).

It is a list of statements describing the standards expected of persons employing or seeking to employ social care workers.

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The focus of the employers' Code is the standards required of employers ensuring a safe, skilled and appropriately supported social care workforce.

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It is not intended to cover all situations or aspects of employer responsibility. Employers adhere to a range of requirements on them set out in legislation, statutory regulations and guidance.

# The Code of Practice for Persons Employing Social Care Workers

For persons employing social care workers in services regulated<sup>5</sup> under Part 1 of the Act, (draft) service regulations on Requirements on Service Providers as to Staffing state that ‘The service provider must adhere to the code of practice on the standards of conduct and practice expected of persons employing or seeking to employ social care workers, which is required to be published by Social Care Wales under section 112(1)(b) of the Act’.

Care and Social Services Inspectorate Wales (CSSIW) can take action if providers fail to comply with these regulations.

In addition to the provision in the Code, under the following sections of the Act, Social Care Wales can give advice to persons, including employers, which could include advice as to suggested improvements, as follows:

Sections 69 – Social Care Wales may give advice to any person providing a care and support service or other assistance (including grants) for the purpose of encouraging improvement in the provision of that service;

Section 126 – following a fitness to practise investigation relating to a registered person, which is not referred for hearing by a fitness to practise panel, Social Care Wales may give advice to any person involved in the investigation in respect of any matter related to the investigation;

Section 137 – where a fitness to practise panel determines that a registered person’s fitness to practise is not impaired, the panel may give advice to any person involved in the proceedings on any matter related to the allegation against the registered person, or the information that gave rise to the proceedings.

This Code requires that employers adhere to the standards set out in their Code, support the social care workforce in meeting their Code (the *Code of Professional Practice for Social Care*) and take appropriate action when staff do not meet expected standards of conduct.

The employers Code supersedes the *Code of Practice for Social Care Employers* published in 2002. The Code applies from xxxxxx.

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<sup>5</sup> Regulated services include: a care home service; a secure accommodation service; a residential family centre service; an adoption service; a fostering service; an adult placement scheme; an advocacy service or a domiciliary support service.

## Who is a 'social care worker'?

'Social care workers manage, or provide care and support in connection with services regulated under the 2016 Act<sup>6</sup>. Social care workers include care and support workers, social care managers, social workers, student social workers, responsible individuals designated by service providers, CSSIW inspectors, child-minders and providers of day care registered under Part 2 of the Children and Families (Wales) measure 2010.

For the full list of social care workers, see section 79 of the Act and the Social Care Wales (Extension of Meaning of "Social Care Worker") Regulations 2016.

<http://www.legislation.gov.uk/anaw/2016/2/section/79>

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## Who this Code extends to

The employers' Code provides guidance for all persons employing social care workers. It extends to persons employing anyone falling within the meaning of a 'social care worker' with the exception of persons employed by a registered child minder or provider of day care for children. However, the Code ensures a level of good practice that is transferable for all employers. The expectation is that child minders employing assistants and child care practitioners would use the Code to complement staffing standard 13 of the National Minimum Standards for Childcare<sup>7</sup>.

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<sup>6</sup> See section 79 of the Regulation and Inspection of Social Care (Wales) Act 2016

<sup>7</sup> <http://cssiw.org.uk/docs/cssiw/publications/160411regchildcareen.pdf> see standard 13 - staffing

## Glossary

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An explanation of other terms used in this Code.

Term	Meaning
Carer	A carer provides unpaid care and / or support and could include family members, partners, neighbours or friends
Code of Professional Practice for Social Care	The standards of professional conduct and practice expected of social care workers in Wales
Individual	The person accessing care and support, whether child, young person or adult
Practice guidance	Guidance published by Social Care Wales to aid social care workers in their practice
Post registration training and learning (PRTL)	Social Care Workers registered with Social Care Wales are required to undertake 15 days or 90 hours of learning during each 3 year period of registration to maintain their registration
Registered manager	In regulated services, the manager of a social care service required to register with Social Care Wales
Responsible individual	In regulated services, where the registered provider is a body corporate, a Responsible Individual (RI) must be designated. RIs have to meet a 'fit and proper person test' and fulfil statutory duties placed on them under regulations.

## The Code

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The employers Code is set out in five sections.

To meet all the standards, in regulated services, where required, a suitable Responsible Individual and Registered Manager must be appointed and supported by the employer to carry out their responsibilities.

## Section 1

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### **Make sure people are suitable to enter the social care workforce and understand their roles and responsibilities**

Employers will

- 1.1 Use rigorous recruitment policies and processes to make sure that only suitable people with appropriate knowledge, skills, values and potential enter the workforce. This includes making sure people hold the qualifications and professional registration required for their post.
- 1.2 Check criminal records and relevant registers, any gaps in employment history and ensure that the person is legally entitled to work in Wales. This will be done before an appointment is made.
- 1.3 Seek and provide accurate and appropriate references to share information on a person's suitability to work in social care and in a specific role.
- 1.4 Give workers clear information about their roles, responsibilities, accountabilities, relevant legislation and the policies and procedures they must adhere to in their work.
- 1.5 Give workers clear information about lines of management, communication and support in the work place. This includes information about support for the worker's health, safety and well-being in the work place.
- 1.6 Make sure that a worker's terms and conditions are lawful and adequate to sustain a suitable workforce and also review terms and conditions regularly to ensure they remain lawful and adequate.

## Section 2

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### **Have policies, systems and practices in place to enable social care workers to meet their Code of Professional Practice for Social Care**

Employers will

- 2.1 Support social care workers to meet the standards in the *Code of Professional Practice* and associated Practice guidance.
- 2.2 If employing workers from other professions, support them to meet their professional codes and report workers whose fitness to practise may be impaired to the relevant authority.
- 2.3 Put in place and monitor policies and procedures to respond to allegations of harm, neglect or abuse. This includes ensuring that workers have knowledge about signs of harm, neglect or abuse and know the action they should take.
- 2.4 Put in place and monitor written policies on confidentiality and record keeping.
- 2.5 Have effective arrangements for the management and supervision of workers to promote best practice and good conduct and support workers to improve their performance. This includes making sure workers are fit to practise.
- 2.6 Have systems in place to listen to and respond to feedback from individuals and carers to shape and improve services and staff performance.
- 2.7 Have policies and systems in place for workers to raise concerns about any matter which might have a negative effect on the delivery of safe and dignified care and support and take adequate action to respond to concerns.
- 2.8 Have a culture and systems in place to support all workers to be open and honest if things go wrong, to report adverse incidents and to learn from mistakes. This includes making efforts to resolve difficulties at an early stage, to reduce the chances of a problem escalating.

## Section 3

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### **Provide and support learning and development opportunities to enable social care workers to develop their knowledge and skills**

Employers will

- 3.1 Provide robust and accessible induction, learning and development opportunities to help workers do their jobs effectively and prepare for new and changing roles and responsibilities. This includes giving workers access to their personal learning and development record.
- 3.2 Contribute to providing social care and social work education and learning, including effective workplace assessment and practice learning.
- 3.3 Support workers who need to be registered with Social Care Wales to meet and maintain the conditions for professional registration and the requirements for post registration training and learning.
- 3.4 Respond appropriately to workers who need support because they do not feel able, or adequately prepared, to carry out their work.
- 3.5 Provide effective, regular supervision to workers to support them to develop and improve through reflective practice.

## Section 4

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### **Have policies and systems to protect people from damaging or dangerous situations, behaviour and practice**

Employers will

- 4.1 Put in place policies and procedures that promote the health, well-being and equality of workers and respect diversity.
- 4.2 Put in place policies and procedures to ensure compliance with relevant health, safety and security requirements. This includes making sure workers are aware of these including any changes or updates, monitoring compliance and taking appropriate action where policies and procedures are not adhered to.
- 4.3 Put in place policies and procedures to investigate and deal adequately with disciplinary matters, including when the worker leaves the organisation before the matter is concluded.
- 4.4 Make it clear to workers that bullying, harassment or any form of discrimination is not acceptable and take action to deal with such behaviour.
- 4.5 Have procedures for workers to report dangerous, discriminatory, or abusive behaviour and practice and deal promptly, effectively and openly with reports.
- 4.6 Make it clear to workers, individuals and carers that violence, threats or abuse are not acceptable. This includes having clear policies and procedures for reducing the risk of violence and managing violent incidents.
- 4.7 Support workers who experience trauma or violence in their work.
- 4.8 Provide support to workers whose fitness to practise may be impaired and give clear guidance about any limits on their work while they are receiving support. While doing this, make sure that the care and safety of individuals using services is the priority.

## Section 5

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### **Promote the *Code of Professional Practice for Social Care* and co-operate with Social Care Wales' proceedings**

Employers will

- 5.1 Inform social care workers about this Code for employers and the responsibility to adhere to it.
- 5.2 Inform social care workers about their *Code of Professional Practice for Social Care* and their professional responsibility to adhere to it.
- 5.3 Support social care managers to meet their additional responsibilities in Section 7 of the *Code of Professional Practice for Social Care*.
- 5.4 Make individuals and carers aware of the Codes of Practice for employers and social care workers and inform them how to raise issues relating to the Codes, including how to contact Social Care Wales.
- 5.5 Take account of the *Code of Professional Practice for Social Care* when making any decision that relates to a workers fitness to practise.
- 5.6 Follow guidance on how to make a referral to Social Care Wales about a worker whose fitness to practise may be impaired and, if appropriate, tell the worker a referral has been made.
- 5.7 Co-operate with Social Care Wales' investigations and hearings including providing documents and attending hearings.
- 5.8 Respond appropriately to the findings and decisions of Social Care Wales about a worker's fitness to practise.

**For more information about this Code, the Code of Professional Practice for Social Care, practice guidance, explanatory guidance and training materials visit [socialcare.wales](https://socialcare.wales).**



## Equality Impact Assessment- Initial Assessment Form

### Section 1: About this assessment

What policy or practice are you assessing?

A consultation document. Changes to the Social Care Wales fees, qualification requirements, code of practice for employers and Fitness to Practise Rules 2017.

What is the purpose of the policy or practice?

The aim of the consultation is to gather opinions about proposed changes to our fees, qualification requirements, employers' code of practice and Fitness to Practise Rules 2017.

Who formally approves this policy or practice?

Social Care Wales Board.

Name of officer conducting this assessment?

Clare Taggart, Policy Lead  
Dean John, Head of Registration  
Sheila Lyons, Sector Lead

Who does this policy or practice impact on?

Care Council Staff	<input checked="" type="checkbox"/>	Social Work Students	<input checked="" type="checkbox"/>
Service Users	<input checked="" type="checkbox"/>	Social Workers	<input checked="" type="checkbox"/>
Social Care Workers	<input checked="" type="checkbox"/>	Employers	<input checked="" type="checkbox"/>
Carers	<input checked="" type="checkbox"/>	Other (please specify)	<input checked="" type="checkbox"/>

Higher Education Institutions

### Section 2: The Impact

For this section, please indicate your answer where applicable by ticking (✓) the appropriate box, it is important to always set out the reason/evidence for your decision.

How does the policy or practice **promote equality of opportunity** for men and women? *e.g. part time or job share arrangements are likely to have a positive impact on women, lone parents and families with young children.*

Gender	Positive Impact	Negative Impact	Neutral Impact (see guidance for definition)	Reason/evidence either presumed or otherwise
Women			✓	The changes will be applied equally across gender groups and we have not identified any problems with this approach.
Men			✓	The changes will be applied equally across gender groups and we have not identified any problems with this approach.
Issues, barriers and gaps identified?				
None identified.				

How does the policy or practice **promote equality of opportunity** on the grounds of race? *e.g. where and how will the policy, service or project be promoted?*

Race	Positive Impact	Negative Impact	Neutral Impact (see guidance for definition)	Reason/evidence
General	✓			The changes will be applied equally across racial groups and we have not identified any problems with this approach.  Section 4 of the employers' code emphasises equality of opportunity in employment practice.
Specific			✓	The fee for

groups				assessment of international qualifications has increased. However, this is still in line with our sister councils and is only a contribution to the cost of assessment.
Issues, barriers and gaps identified?				
None identified.				

How does the policy or practice **promote equality of opportunity** for disabled people?  
*e.g. information packs for registrants available in different formats.*

Disability	<i>Positive Impact</i>	<i>Negative Impact</i>	<i>Neutral Impact (see guidance for definition)</i>	<i>Reason/evidence</i>
Visual Impairment	√			<p>If requested, Social Care Wales can provide information about the proposed changes in alternative formats.</p> <p>Fees can be paid in many ways. SCW online meets accessibility standards and payments can be taken by phone, in person or by post. Our support team can guide people through the process.</p> <p>Section 4 of the employers' code emphasises equality of opportunity in employment practice.</p>
Hearing Impaired	√			As above.

Physical Disability	√			As above.
Learning Disability	√			As above.
Mental Health	√			As above.
Other				
Issues, barriers and gaps identified?				
None identified.				

How does the policy or practice **promote equality of opportunity** for people due to their age, sexual orientation, religion or belief? *e.g. not making assumptions about the capability or medical fitness of someone based on age.*

	<i>Positive Impact</i>	<i>Negative Impact</i>	<i>Neutral Impact (see guidance for definition)</i>	<i>Reason/evidence</i>
Age (18 and Over)			√	<p>The proposed changes do not relate to age, there are no specific references to age and there are no restrictions other than that those taking part in the process must be over 18.</p> <p>Section 4 of the employers' code emphasises equality of opportunity in employment practice.</p>
Sexual orientation			√	<p>The proposed changes do not relate to sexual orientation and there are no specific references to sexual orientation. Sexual orientation is not a barrier to participation in the process.</p> <p>Section 4 of the employers' code emphasises equality</p>

				of opportunity in employment practice.
Religion or belief			√	<p>The proposed changes do not relate to religion or belief and there are no specific references to religion or belief. Religion and belief are not barriers to participation in the process.</p> <p>Section 4 of the employers' code emphasises equality of opportunity in employment practice.</p>
<p>Issues, barriers and gaps identified?</p> <p>None identified.</p>				

How does the policy or practice promote equality of opportunity for service users or carers for someone who uses services? *e.g. a flexible working policy is likely to have a positive impact on carers.*

	<i>Positive Impact</i>	<i>Negative Impact</i>	<i>Neutral Impact (see guidance for definition)</i>	<i>Reason/evidence</i>
Service Users			√	<p>The proposed changes are part of Social Care Wales' efforts to promote and maintain high standards in the care sector. There are no specific issues relating to the promotion of equal opportunities amongst service users.</p> <p>The Code does not directly promote equality of opportunity for people using services. However, good employment</p>

				practices should result in better services for people.
Carers			√	There are no specific issues relating to the promotion of equal opportunities amongst carers. The Code does not directly promote equality of opportunity for carers. However, good employment practices should result in better services for people.
Issues, barriers and gaps identified?				
None identified.				

How does the policy or practice **promote equality of opportunity** for the protected characteristics of gender reassignment?

	<i>Positive Impact</i>	<i>Negative Impact</i>	<i>Neutral Impact (see guidance for definition)</i>	<i>Reason/evidence either presumed or otherwise</i>
Gender reassignment	√			Section 4 of the Code requires employers to meet their responsibilities to those with protected characteristics. However, there are no specific references to gender reassignment within any of the changes. The changes are applied equally and we have not identified any need to alter this position in relation to gender reassignment.
Issues, barriers and gaps identified?				
No issues identified.				

How does the policy or practice **promote equality of opportunity** for women on the grounds of pregnancy and maternity? e.g. *maternity refers to the period after the birth, and is linked to maternity leave in the employment context.*

	<i>Positive Impact</i>	<i>Negative Impact</i>	<i>Neutral Impact (see guidance for definition)</i>	<i>Reason/evidence either presumed or otherwise</i>
Pregnancy			√	
Maternity	√	√		<p>The return to practise fee has increased and this could affect anyone who takes time out of the workplace following a pregnancy. In addition, an increased fee could have an impact on anyone working in a part-time position and this could have an effect on someone who switches to part-time hours during pregnancy or following childbirth.</p> <p>Section 4 of the Code requires employers to meet their responsibilities to those with protected characteristics.</p>
<p>Issues, barriers and gaps identified?</p> <p>None identified.</p>				

How does the policy or practice **promote equality of opportunity** for civil partners and married couples? e.g. *civil partners must be treated the same as married couples.*

	<i>Positive Impact</i>	<i>Negative Impact</i>	<i>Neutral Impact (see guidance for definition)</i>	<i>Reason/evidence either presumed or otherwise</i>
Civil Partnership			√	There are no references to civil partnership within the proposed changes and we have not identified any need to make adjustments to our plans based on civil partnership.
Married Couples			√	There are no references to marriage within the proposed changes and we have not identified any need to make adjustments to our plans based on marital status.
Issues, barriers and gaps identified?				
None identified.				

How does the policy or practice **promote equality of opportunity** for language of choice (English/Welsh)?

### Section 3

	<i>Positive Impact</i>	<i>Negative Impact</i>	<i>Neutral Impact (see guidance for definition)</i>	<i>Reason/evidence either presumed or otherwise</i>
English			√	The process is open to English and Welsh speakers and the proposed changes will be applied equally and in both languages.
Welsh			√	The process is open to English and Welsh speakers and the proposed changes will be applied equally and in both languages.
Issues, barriers and gaps identified?				
In practice: all documentation is available in English and Welsh, and all communication with a registered person is undertaken in the language of their choice.				

What is the outcome of the impact assessment?

Inconclusive	<input type="checkbox"/>	Stop and remove	<input type="checkbox"/>
No Major Change	<input checked="" type="checkbox"/>	Adjust the policy	<input type="checkbox"/>

If the outcome of your assessment is either inconclusive or stop and remove a full equality impact assessment is required for this policy/service/ project.  
*Please refer to the guidelines for further explanation.*

If the outcome of your assessment is adjust the policy, please state the changes/adjustments you will make.

Governance (sign-off by relevant Director)

Name:	Gerry Evans
Job title:	Director of Regulation and Professional Standards
Date:	
Signature:	
EIA Review Date:	

Please e-mail a copy of the completed form to Abu Askira, Business Support officer, [abubakar.askira@ccwales.org.uk](mailto:abubakar.askira@ccwales.org.uk)