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**CYFARFOD BWRDD / BOARD MEETING: 25.01.18**

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| **EITEM/ITEM:** | **8** |
| **TEITL/TITLE: SCW/18/04** | **Changes to our fitness to practise and registration rules** |
| **AWDUR/AUTHOR:****CYFRANIADAU GAN/ CONTRIBUTIONS FROM:** | **Gerry Evans****Clare Taggart** |
| **ATODIADAU/APPENDICIES:** |  |
| **Appendix 1** | **Qualification requirements for domiciliary care workers** |
| **Appendix 2** | **New registration fees from 2018** |
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| **TRAFODWYD YN FLAENOROL YN/ITEM PREVIOUSLY DISCUSSED AT:** |
| Board meeting of 23 November 2017 |
| **PENDERFYNIAD / DECISION:**Board members are invited to **agree** the proposed changes and **delegate final approval** of the changes to the rules to the Chair of the Board. |

**Changes to our Fitness to Practise and Registration Rules**

**1. Purpose of report and recommendation**

* 1. Following Social Care Wales’s consultation about changes to our fitness to practise and registration rules and in advance of the opening of our Register to domiciliary care workers, we have asked our solicitors, Blake Morgan, to help us change our registration and fitness to practise rules.
	2. The purpose of this report is to provide Board members with an outline of the process for changing our rules, to reassure them that we have met our legal requirements, and a summary of the changes we want to make.

1.3 While the final set of rules would normally be approved by the Board, the time available between Ministerial approval of our recommendations following consultation and the changes coming into force do not allow for a full set of rules to be developed and brought to a Board meeting for approval. We are also keen to be able to provide the sector with clear requirements as soon as possible. We are therefore requesting the Board agree the changes outlined below and that the final approval of the rules is delegated to the Chair of the Board.

**2.** **Process for changing our rules**

2.1 When changing our rules, we are required under Section 75 of the Regulation and Inspection of Social Care (Wales) Act 2016 (the Act) to:

1. publish a draft of the proposed rules accompanied by an explanation of the purpose and intended effect of the proposed rules and a notice specifying the period within which representations about the rules may be made to Social Care Wales
2. take reasonable steps to give notice of the proposal and the period for making representations to relevant social care workers, Welsh Ministers and such other persons as we think appropriate

2.2 Where we are satisfied that the nature of the proposed rules is such that consultation would be inappropriate or disproportionate and we have obtained the agreement of the Welsh Ministers, section 75(3) of the Act allows us to proceed without consultation.

2.3 The changes we have asked Blake Morgan to make are based on the recommendations we made following our consultation Transforming Care in the 21st Century. We have therefore met the requirements set out in the Act and are confident that we are permitted to change these rules. Our recommendations were approved by the Board in November 2017.

2.4 We have asked for other changes that are not based on consultation. This is because they relate to minor administrative matters and we consider it inappropriate or disproportionate to consult in these circumstances. These changes will not alter the substance of the rules. We are relying on section 75(3) of the Act to justify making these changes without consultation.

1. **Changes that we need to make to the Social Care Wales Registration Rules 2017**

3.1 The following changes are based on the recommendations that followed our consultation Transforming Care in the 21st Century:

* 1. change the qualification schedule to reflect the requirements for domiciliary care workers that are shown in Appendix 1
1. change the fee schedule to show the fees set out in Appendix 2
2. create rules around the use of grandparenting, the process by which some domiciliary care workers will be able to register using a competence assessment from their employers
	1. We need to update the definition of social care workers in the Registration Rules, Registration Appeal Rules and Panel Constitution Rules. These are straightforward administrative changes to reflect the legal extension of the register by the Welsh Ministers which was consulted upon by Welsh Government and for which there is no additional requirement for us to consult.
	2. We will change the wording in section 1 of Schedule 5 of the rules to show that the Consolidation Programme requirement relates to the first registration period in which a social worker is practising in a social work role. This is a simple administrative change that will make the requirement clearer and we are using section 75(3) to justify making the change without consultation.

**4. Changes that we need to make to our Fitness to Practise Rules 2017**

4.1 Based on the recommendations of our consultation, we would like to make the following changes to our Fitness to Practise Rules 2017:

1. change the rules about the witness summons process to show that applications will be addressed to the County or High Court, rather than the Care Standards Tribunal
2. change the rules about direct referrals to fitness to practise panels to show that we will make direct referrals where:
* the registered person has a relevant conviction or caution in respect of a criminal offence
* the registered person has been included in a barred list
* the matter relates to a finding of fact by a relevant regulatory body to the effect that the registered person’s fitness to practise is impaired

**5. Further changes we are working on**

**Changes that require the involvement of the Welsh Ministers**

5.1 We have asked the Welsh Government to help us resolve the following problems:

1. non-payment of annual fees by registered persons is leading to loss of income and inaccuracies in the Register – if a registered person fails to pay annual fees, we cannot remove them from our Register (for non-payment) until they apply to renew their registration
2. difficulties in using paper hearings in fitness to practise and interim orders hearings - existing regulations for the use of paper hearings are not effective and we are therefore unable to use the process
	1. It is possible that the Welsh Ministers will have to make legislative changes to address these problems and they are currently exploring the options. If the legislation is changed, we may not need changes to our rules, other than administrative changes to reflect the legislation.

**Changes that require advice from Blake Morgan**

5.3 We have asked Blake Morgan for advice about whether we should ask the Welsh Ministers to use section 117(6) of the Act to include Restraining Orders and Domestic Violence Police Information Notices in the list of possible grounds for impairment. We would then be able to add this to our Registration Rules 2017, Part II, section 7(1)(b) of the Registration Rules – this is the section on evidence of fitness to practise.

5.4 We have asked for advice about whether we can make it a requirement for social care managers to sign up to the Data Barring Service (DBS) update service. We are already permitted to ask for information about fitness to practise, including DBS checks, and the requirement for managers to use the update service would help us to make better use of our existing powers. We need guidance about the best way to address the requirement through our rules, but it is a purely administrative change.

**6. Resource considerations**

6.1 Any budgetary implications associated with implementation of the changes have been incorporated into financial planning for extending the Register. The cost of making the changes, including the legal and translation costs, is covered by the policy budget.

**7. Equalities**

7.1 We have not undertaken an equality assessment in relation to the process of changing our rules; we carried out a full Equality Impact Assessment as part of our Transforming Care in the 21st Century consultation and the changes that we want to make to our rules reflect the recommendations of the consultation. Any other firm changes that are mentioned in this document that were not part of the consultation process are administrative and we have not identified any equalities issues arising from them.

**APPENDIX 1**

**Qualification requirements for domiciliary care workers**

Those who want to register for a domiciliary care role can use qualification **route A** or **route B** below

**Route A – this route is for those who already have one of the qualifications shown below:**

For those employed to work with adults in domiciliary care services:

* 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.

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.

**Route B – this route is for people who do not have one of the qualifications listed above**

**For those registering before April 2020**

the Level 2 Award for Social Care Induction (Wales) and a statement of competence signed by a registered manager

**or**

for workers with 3 or more years’ experience of working in the sector, a statement of competence that has been signed by the registered manager and is supported by evidence of relevant knowledge and skills

**For those registering after April 2020**

the Level 2 Award for Social Care Induction (Wales)

**and**

the Social Care Induction Framework (this part must be completed within the first six months of practice, after which the worker should register)

Note:

Those who use Route B to register and who register **before 1 April 2020** will not be required to complete any further qualifications but will have to meet the post registration training and learning requirements.

Those who use Route B to register **from 1 April 2020** will need to complete one of the following qualifications within their first (three-year) period of registration:

For those employed to work with adults in domiciliary care services:

* 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. [[1]](#footnote-1)

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.

**APPENDIX 2**

**New fees from April 2018**

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| **Fees for each role** | **Annual fees by year**  |
| **2018/19** | **2019/20** | **2020/21** | **2021/22** |
| Social Worker (application, renewal and annual) | £50 | £60 | £70 | £80 |
| Social Worker – Non-UK Qualified (application) | £350 (and an additional fee of £200 for an aptitude test if requested by the applicant) | £350 (and an additional fee of £200 for an aptitude test if requested by the applicant) | £350 (and an additional fee of £200 for an aptitude test if requested by the applicant) | £350 (and an additional fee of £200 for an aptitude test if requested by the applicant) |
| Social Care Manager (application, renewal, annual) | £50 | £60 | £70 | £80 |
| Social Care Worker (application, renewal and annual) | £15 | £20 | £25 | £30 |
| Social Work Student (application and annual) | £15 | £15 | £15 | £15 |
| Return to Practise | £200 | £200 | £200 | £200 |

1. 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. [↑](#footnote-ref-1)