



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

Workforce Regulation Policies and Procedures

Publication Policy

**Policy about the publication and sharing of information about
registered persons and others involved in Social Care Wales
proceedings**

April 2021

Contents

Section 1:	Introduction – reason for having this policy	3
Section 2:	Information that appears in the Register and the List of persons removed from the Register	6
Section 3	Information that appears on the Hearings page of our website	8
Section 4:	Fitness to practise cases that do not involve health issues	11
Section 5:	Fitness to practise cases where health is a ground for impairment	14
Section 6:	Restoration cases	17
Section 7:	Press releases	18
Section 8:	Miscellaneous	19
Appendix 1		22
Appendix 2		26

Policy on the publication and sharing of information about registered persons and others involved in Social Care Wales proceedings

1. Introduction – reason for having this policy

- 1.1 Section 68 of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”) states that Social Care Wales’s main objective in carrying out its functions is to protect, promote and maintain the safety and well-being of the public in Wales.¹
- 1.2 As part of our public protection work, we must keep a register of social care workers in Wales (‘the Register’) and a separate ‘List of Persons Removed from the Register’ (‘the List’) following fitness to practise proceedings – sections 80 and 110 of the Act set out these requirements.
- 1.3 Giving people access to the Register and the List is a legal requirement and it helps us in our statutory public protection duty by allowing people to check whether an individual:
- is a registered social care worker
 - is free to practise without restriction
 - has ever had their name removed from the Register.
- 1.4 We use online versions of the Register and List to make it easier for the public to access the information. These can be found on the ‘Registration’ page of our website.²
- 1.5 The information we must, and are allowed to, include in the Register is set out in section 91 of the Act. This is supplemented by the Social Care Wales

¹ <http://www.legislation.gov.uk/anaw/2016/2/contents/enacted>

² <https://www.scwonline.wales/en/search-the-register/>

Note: We can accommodate reasonable requests to provide extracts from the Register in other formats.

(Content of Register) Regulations 2016³ and the Social Care Wales Content of the Register Rules 2020.⁴

- 1.6 The information we must, and are allowed to, include in the List is set out in section 110 of the Act and the Social Care Wales (List of Persons Removed from the Register) Regulations 2016.⁵
- 1.7 Under section 161 of the Act, we must also make the public aware of fitness to practise proceedings and the outcome of those proceedings. This is to ensure that our processes are transparent and fair and to promote public confidence in our regulatory work and the social care workforce. It is also to let the public know about any hearings they can attend.⁶ We use our website and press releases to do this, although we can also use other forms of publicity.
- 1.8 Most of the information we publish is laid down in law and there are few areas of discretion. This policy explains how we meet our legal duty to publish information about fitness to practise and how we exercise our discretion in the few situations where it applies.
- 1.9 The main aims of this policy are:
- to provide our staff with guiding principles for operating lawfully and fairly when publishing information about the fitness to practise of registered persons in our Register and on our website
 - to make information about the fitness to practise of social care workers more accessible to the public by explaining our approach to publishing it
 - to help registered social care workers understand how information about their fitness to practise will be presented in the Register and on our website

³ <http://www.legislation.gov.uk/wsi/2016/1097/contents/made>

⁴ https://socialcare.wales/cms_assets/file-uploads/SCW-Content-of-Register-Rules-2020-FINAL.pdf

⁵ <http://www.legislation.gov.uk/wsi/2016/1111/body/made>

⁶ Some hearings are held in private and the public cannot attend these hearings. If a hearing is going to be held in private, we will publish this information on our website.

- to help the public understand our work.

1.10 The policy sets out the types of information we will include on our website and in our Register and List. It also sets out how long this information will stay there.⁷

1.11 The policy reflects:

- our legal duties
- the rights of individuals involved in fitness to practise proceedings
- the public interest in those proceedings
- our need to make sure that any information we publish about our fitness to practise proceedings is relevant, accurate, proportionate and fair
- our duties under the Data Protection Act 2018, including the need for us to have an Appropriate Policy Document in place when processing criminal offence data and special category data.⁸

1.12 The policy will be reviewed annually, or more frequently if needed.

⁷ This refers to the Hearings pages of the Social Care Wales website and not the online Register.

⁸ For an explanation of special category data, see: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/special-category-data/>

2. Information that appears in the Register and the List of persons removed from the Register

2.1 We must include the following information about all registered persons in the Register:

- a. name or names⁹
- b. registration number
- c. date of registration
- d. the part of the Register in which the person is registered
- e. the person's qualifications to practise in the registered role
- f. postal county of the address where the person is employed or self-employed (unless located outside the UK)¹⁰
- g. if the registered person is a social work student, the postal county where the registered person is taking part in a degree course¹¹
- h. such qualifications, knowledge or experience specified in the schedule to the Social Care Wales (Content of the Register) Regulations 2016.

By law, this information will be available in the Register for as long as the person is registered.

2.2 We must update the Register to show relevant changes to the registered person's record. This includes details of any relevant fitness to practise proceedings or registration appeals proceedings. Appendix 1 sets out the types of fitness to practise information we must, and are allowed to, include in the Register, and how long this information will stay there.

⁹ Under rule 3 of The Social Care Wales Content of the Register Rules 2020, this includes current and previous names. However, in exceptional circumstances, the Registrar may decide not to include previous names in the Register.

¹⁰ If a registered person is not currently employed, this field will state 'not applicable'. In addition, if there are valid reasons for not showing this information in an individual's entry in the Register, we will not include it. County is not a relevant field in the List of Persons Removed from the Register.

¹¹ The student's name or names will not be entered in the Register until the Registrar is satisfied that the student has started taking part in a degree course.

- 2.3 We must also update the List with relevant changes. Appendix 2 sets out the decisions this relates to and the information that will appear in the list.
- 2.4 By law, some information about fitness to practise proceedings must remain in the Register for as long as the person is registered, even where the fitness to practise order has ceased to have effect. This includes information about suspension orders, conditional registration orders and previous removals from the Register. You can find details in Appendix 1.

3. Information that appears on the Hearings page of our website

Our legal duty to publish information about fitness to practise proceedings and restoration hearings

- 3.1 Section 161 of the Act says that we must publish certain fitness to practise decisions. It contains a list of relevant decisions and sets out additional decisions we may publish, even though we are not required to do so. It says that we must not publish any information about a person's physical or mental health.
- 3.2 Section 109 of the Act says that we must publish any decisions by registration appeals panels not to restore a person to the Register, as well as any decisions that a person may not make further applications for restoration. It says that we must not publish any information about a person's physical or mental health.
- 3.3 There may be exceptional circumstances where, even though we are allowed to publish information about a hearing, we will choose not to do so. These decisions will be made by the Registrar/Deputy Registrar, who will consider matters such as (but not limited to):
- our public protection and safeguarding duties
 - the rights of the various parties involved in the hearing
 - any relevant legislation or case law
 - relevant legal advice
 - the need for transparency in our processes
 - relevant government policy.
- 3.4 Section 159 of the Act says that we may publish or disclose to any person information about a registered person's fitness to practise if we think it is in the public interest to do so. Our Registrar/Deputy Registrar will make decisions

about this and will consider matters such as (but not limited to) those listed in section 3.3 above.

3.5 We will not normally publish:¹²

- information that identifies persons under 18 years of age, including registered persons under 18
- information about convictions that are ‘spent’ under the Rehabilitation of Offenders Act
- information that identifies victims of sexual offences
- details of private family court proceedings
- the name of a residential care home/children’s home
- information that identifies witnesses
- special category data

Appropriate screening processes are in place within our Fitness to Practise and Hearings teams to make sure this information is not included in the information we publish. Our pre-hearing reviews provide additional screening checks.

3.6 We normally publish information about fitness to practise hearings and registration appeals hearings on our website and in press releases. We also provide a link between entries in the Register and the List and live decision summaries on our website. This is to provide the public with information about relevant public protection matters and to help users understand our decisions. It can also help the registered person by ensuring that those forming a judgment about why a particular order is in place have access to the relevant facts.

¹² Where the Registrar/Deputy Registrar feel that it may be necessary to publish such information and it is lawful to do so, they will use a public interest test to help them make a decision. They will also take into account relevant legislation such as, but not limited to, the Human Rights Act 1998, the Data Protection Act 2018 and the Rehabilitation of Offenders’ Act 1974.

- 3.7 This policy sets out details about what we will publish on our website and how long this information will stay there.

4 Fitness to practise cases that do not involve health issues

Information that is published before a hearing

4.1 One week before a fitness to practise hearing, we will put the following information about the registered person on our website:

- name
- registration number
- role
- employer/former employer
- date of hearing
- location of hearing
- summary of the charges.¹³

4.2 If charges are amended during a hearing, we will publish the amended charges on our website. This will normally happen after the hearing has come to an end.

What we publish in cases where there is a finding of impairment

4.3 If a registered person is found to have impaired fitness to practise by a Social Care Wales panel, we will update the Register or List as appropriate. We will do so in line with the guidance in Appendices 1 and 2.

4.4 At the end of the hearing, we will also add the following information about the registered person to our website:

- hearing outcome and a 'Decision Summary' which briefly outlines the panel's decisions on facts, impairment and disposal.

¹³ Note: restoration hearings do not contain charges.

- 4.5 Information about the hearing, including the charges and Decision Summary, will stay on our website for as long as the fitness to practise order is in place and will be removed when the order ceases to have effect – see Appendix 1. This is in line with the timescales set out in law for the content of the Register and the List. In publishing this information, we will show due regard for the need to be accurate, proportionate, transparent and fair.
- 4.6 Members of the public can request a copy of the panel’s reasons. The process for making such requests is shown on our website. We will make the reasons available to them subject to any legal or policy restrictions on the publication or sharing of this information.
- 4.7 If the outcome of the hearing is a removal order, the information about the hearing and the Decision Summary will stay on our website for five years. This timescale reflects:
- our statutory public protection duty
 - the serious nature of a removal order
 - the ban on reapplying to the Register for at least five years following a removal order
 - our need to make the public aware of the restriction on the individual’s practise during this time.
- 4.8 In line with the requirements of the Act and The Social Care Wales (List of Persons Removed from the Register) Regulations 2016, the names of those who are subject to a removal order will remain in the List unless and until their name is restored to the Register following a successful restoration hearing or a successful appeal to the Care Standards Tribunal.

What we publish in cases where there is a finding of no impairment

No impairment and no further action

- 4.9 If a panel finds that a person's fitness to practise is not impaired, we will put the hearing outcome on our website at the end of the hearing. We will only add the Decision Summary if the person consents.
- 4.10 The outcome and, where relevant, the Decision Summary will normally stay on the website for one week from the date of the decision. The Registrar/Deputy Registrar will consider any requests from the registered person to keep the information there for longer.

No impairment – formal advice given by the panel

- 4.11 If a panel finds that a person's fitness to practise is not impaired but that it is necessary to issue formal advice, we will put the hearing outcome and decision summary on our website at the end of the hearing.
- 4.12 The outcome and decision summary will normally remain on our website for three months from the date of the decision. The Registrar/Deputy Registrar will consider any requests from the registered person to keep the information there for longer.

No impairment – formal warning given by the panel

- 4.13 If a panel finds that a person's fitness to practise is not impaired but that it is necessary to issue a formal warning, we will put the hearing outcome and decision summary on our website at the end of the hearing.
- 4.14 The outcome and decision summary will remain on our website for the duration of the warning.

5 Fitness to practise cases where health is a ground for impairment

Information that is published before a hearing

5.1 We will put the following information on the hearings page of our website one week before a hearing:

- name
- registration number
- role
- employer/former employer
- type of hearing and whether the entire hearing will be held in private
- date, time and venue.

Finding of impairment - cases involving health-related impairment

5.2 Where a registered person is found to have impaired fitness to practise following a hearing in which health is a ground for impairment, we will not publish any information about their physical or mental health. We will put the following information on the hearings page of our website at the end of the hearing:

- outcome of the hearing and, where relevant, the Decision Summary.¹⁴

This information will stay on our website for as long as the fitness to practise order is in place – see Appendix 1.

¹⁴ If some, or all, of the hearing was held in public, the Decision Summary will also be published, but information about the person's health will be removed. If the entire hearing was held in private, only the outcome will be published.

5.3 If the order is for a removal, the information will stay on our website for five years.¹⁵ This timescale reflects:

- our statutory public protection duty
- the serious nature of the removal order
- the ban on applying to the Register for at least five years following a removal order
- our need to make the public aware of the restriction on the individual's practise during this time.

Finding of no impairment in cases involving health related impairment

No impairment and no further action – health cases

5.4 If a panel finds that a person's fitness to practise is not impaired and that no further action is necessary, we will put the following additional information on our website at the end of the hearing:

- outcome¹⁶

5.5 This information will normally stay on our website for one week unless the registered person asks us to keep it there for longer. The Registrar/Deputy Registrar will consider such requests.

No impairment but advice issued – health cases

5.6 If a panel finds that a person's fitness to practise is not impaired but that it is necessary to issue formal advice, we will put the following additional information on our website at the end of the hearing:

¹⁵ The timescales reflect our role as the professional regulator, our duty to protect the public, and our need to be accurate, proportionate, transparent and fair.

¹⁶ If some, or all, of the hearing was held in public and the person provides their consent, the Decision Summary will also be published. However, this will only cover the parts of the hearing that were held in public and it will not include information about the person's health.

- outcome¹⁷

5.7 This information will normally stay on our website for three months unless the registered person asks us to keep it there for longer. The Registrar/Deputy Registrar will consider such requests.

No impairment but a warning given – health cases

5.8 If a panel finds that a person's fitness to practise is not impaired but that a formal warning is necessary, we will put the following information on our website at the end of the hearing:

- outcome¹⁸

5.9 This information will stay on our website for as long as the warning remains in place.

¹⁷ If some, or all, of the hearing was held in public, the Decision Summary will also be published and will remain on the website for the same amount of time as the outcome. The decision summary will only cover the parts of the hearing that were held in public and will not include information about the person's health.

¹⁸ If some, or all, of the hearing was held in public, the Decision Summary will also be published and will remain on the website for the duration of the warning. However, this will only cover the parts of the hearing that were held in public and will not include information about the person's health.

6 Restoration cases

6.1 If a person subject to a removal order applies to be restored to the Register, we will put the following information on our website a week before the hearing:

- name
- registration number
- role
- hearing date
- hearing venue
- type of hearing.

6.2 If a panel decides that the person's name should be restored to the Register, we will update the website to show the outcome, remove their name from the List and add it to the Register. We will remove all information about the hearing from our website after one week unless the registered person asks us to keep it there for longer.¹⁹

6.3 The Register will continue to show that the person had been subject to a removal order.²⁰

6.4 If a panel decides that the person's name should not be restored to the Register, their name will stay in the List. We will remove information about the hearing from our website after 12 months, which is the minimum period an applicant must wait before reapplying to the Register.

6.5 If a panel decides that the person's right to apply for restoration should be suspended, we will remove information about the hearing from our website after 12 months or, if this happens sooner, when the suspension is lifted by a panel.²¹

¹⁹ The Registrar/Deputy Registrar will consider such requests.

²⁰ This is line with the requirements of the Regulation of Social Care (Wales) Act 2016 and The Social Care Wales (Content of Register) Regulations 2017,

²¹ Section 97(5) of the Regulation and Inspection of Social Care (Wales) Act 2016 says that the individual affected by the order may ask the Registrar to arrange a panel review of the order.

7 Press releases

7.1 If health is not a ground for impairment and there are no other restrictions on publicising a hearing, we will issue a press release featuring the following information about the registered person one week before a hearing:

- name
- registration number
- summary of the charges
- current/previous employer
- local authority area.

7.2 When the hearing ends, we will issue a press release about the outcome of the hearing, subject to any restrictions set out in law or in this policy, and put this information on our website. This information will stay on our website in line with the timescales for information about our hearings' outcomes.

8. Miscellaneous provisions

Officer level outcomes (not panel decisions)

- 8.1 If a registered person is subject to an officer warning or undertakings, we will put details of this outcome in the Register. This is in line with the requirements of the Act and The Social Care Wales (Content of Register) Regulations.
- 8.2 We will show removal by agreement (officer level) on the hearings page of our website.²² The entry will show the date on which the removal by agreement became effective and include a copy of the Statement of Agreed Facts, which will remain on our website for two years. Where health matters form part of the statement of agreed facts, such information will not be included in the entry on our website. Where health information forms a substantial part of the statement of agreed facts, but there are additional non-health related matters, we will provide a summary of this information that is sufficient to serve the public interest and our public protection duty.
- 8.3 In the case of officer warnings and undertakings, we will remove this information from the Register when the order ceases to have effect.
- 8.4 In the case of a removal by agreement, we will remove the person's name from the Register following the decision. We will also remove information about the removal by agreement from our website after two years.

Successful appeals against decisions of fitness to practise panels

- 8.5 If the registered person has a successful appeal against a fitness to practise panel's decision and the original decision is still shown on our website, we will update the website to show the new outcome or, where relevant, remove the entry. We will aim to do this within one week of the date on which we are told

²² Removal by Agreement that takes place through a panel (under section 135 of the Regulation and Inspection of Social Care (Wales) Act 2016) will be recorded in the List of Persons Removed from the Register. This does not apply to Removal by Agreement at officer level.

about the decision. The outcome will stay on the website for one week unless the registered person asks us to keep it there for longer. The Registrar/Deputy Registrar will consider these requests.

Information about complainants

- 8.6 If the complainant is a person who uses care and support services, or there are other good reasons for keeping their identity confidential, as set out in law or as determined by the Assistant Director of Regulation (or Director), we will not make the complainant's name public. Any decisions about hearings that are made public will not include information that identifies them.²³
- 8.7 We may pass details of the complainant to other regulatory bodies, the Disclosure and Barring Service or the Care Standards Tribunal, but we will do so confidentially and only with the agreement of the complainant. We will do so in line with the requirements of any relevant data sharing agreements between Social Care Wales and other bodies.

Information that may appear when using internet search engines

- 8.8 We will remove information about hearings from our website in accordance with this policy. However, even if it has been removed from our website under this policy, it may appear on an internet search engine such as Google, Yahoo and Bing. We are unable to stop this from happening, but you can contact search engine providers directly to discuss any concerns or queries about the right to be forgotten. We will be able to confirm if information has been removed from our site and, if so, when it was removed.

²³ This includes but is not limited to, victims of sexual offences or other abuse, including where the abuse forms the basis of the fitness to practise referral, children, vulnerable persons and those at risk of harm from identification.

Complaints and concerns

- 8.9 This policy is updated at least once a year and is subject to equalities impact and data protection impact assessments. We are always open to feedback about how it can be improved. If you have any concerns about this policy or wish to give us feedback, take a look at our Compliments, Concerns and Complaints policy at socialcare.wales/about/what-we-do#section-33632-anchor

Other resources

- 8.10 You can find information about our fitness to practise and hearings processes at socialcare.wales/fitness-to-practise
- 8.11 You can search our Register and List and find out more about our registration and restoration processes at socialcare.wales/registration
- 8.12 You can find a copy of our privacy notice at socialcare.wales/generic-content/privacy-notice and detailed information from the Information Commissioner about your data protection rights at ico.org.uk/

Authorised by: Hywel Dafydd, Assistant Director of Regulation

Date: 29 April 2021

Signature:



APPENDIX 1

Information that appears in the Social Care Wales Register

1. Interim orders in the Register

Only two types of interim order can be made by a Social Care Wales fitness to practise panel – a conditional registration order and a suspension order.

Entries about interim orders in the Register will show:

- the type of interim order that has been made or confirmed
- the duration of the order
- any variation that has been made, if applicable
- in the case of an interim conditional registration order, the conditions imposed, other than conditions relating to physical or mental health.

We will remove information about the interim order from the Register when the order expires or is revoked.

2. Hearings outcomes in the Register – finding of impairment in cases not involving health

If there has been a finding of impairment, the Register entry will show:

- that the person's fitness to practise has been found to be impaired
- the type of order the panel put in place
- the duration of the order (if it is an immediate order, this must be stated)
- details of the order, such as conditions or undertakings*.

*If undertakings are agreed (rather than imposed by the panel), the Register must show that the person admits that his or her fitness to practise is impaired and specify

the undertakings that have been agreed, except for any undertakings relating to the person's physical or mental health.

3. When will information about fitness to practise hearings (involving impairment) be removed from the Register?

Type of order	When will this information be removed from the Social Care Wales Register?	When will this information be removed from the Social Care Wales website?
Warning (panel)	When the warning expires.	When the order ceases to have effect.
Undertakings (panel)	When the undertakings no longer apply. If the registered person lapses or has a voluntary removal while undertakings are in place, the undertakings will continue to apply and will remain on the Register until the undertakings cease to have effect.	When the undertakings cease to have effect.
Suspension	A record of the suspension remains in the Register for as long as the person is registered.	When the suspension ceases to have effect.
Conditional Registration	The Register will continue to show that the person was subject to a conditional registration order and the dates the order was in place, but the Registrar may remove details of the conditions imposed under the order once the order has expired.	When the conditional registration order ceases to have effect.
Removal	Details of the removal will appear in the List of Persons Removed from the Register and will stay there unless and until the person is restored to the Register (or the removal is overturned by a tribunal) Information about the removal will always be shown in the Register if the person is restored to the Register	Five years from the date of the removal.

Type of order	When will this information be removed from the Social Care Wales Register?	When will this information be removed from the Social Care Wales website?
Indefinite suspension	A record of the suspension remains in the register for as long as the person is registered.	5 years from the date of the indefinite suspension unless the person is restored to the Register before this time or is removed from the Register by a removal order.
Restoration	<u>Restored</u> – information about the person’s removal from the Register following a finding of impairment will remain in the Register for as long as the person is registered.	1 week from the date of the decision, or longer at the request of the registered person.
	<u>Not restored</u> – the entry in the List of Persons Removed from the Register will remain in place.	12 months from the date of the decision not to restore.

4. Entries in the Register following a finding of no impairment

If there has been a finding of no impairment by a fitness to practise panel and the registered person has been given advice or a warning, the entry in the Register must state that the person’s fitness to practise is not impaired and show the outcome.

Type of order	When the information will be removed from the Register?	When the information will be removed from the website?
Advice (panel)	The information will normally remain in the Register for 3 months. The Registrar will consider any requests from the registered person to keep the information there for longer.	3 months unless the registered person has asked for the information to remain on the website for longer and the Registrar has agreed to this.
Warning (panel)	When the warning expires.	When the warning expires.

5. Entries in the Register following a warning or undertakings from a fitness to practise officer (not a panel).

Fitness to Practise officer decision	What will the Register entry show and when will this information be removed from our Register?	When will this information be removed from our website?
Warning (officer)	<p>The entry must state that the question of impairment has not been determined and that a warning has been issued by Social Care Wales.</p> <p>When will the information be removed?</p> <p>When the warning expires</p>	Not applicable.
Undertakings (officer)	<p>The entry must state that the question of impairment has not been decided, and specify the undertakings that have been agreed, except for any relating to the person's physical or mental health.</p> <p>When will the information be removed?</p> <p>when the undertakings cease to have effect</p>	Not applicable.
Removal by agreement (officer)	<p>Does not appear in the Register unless it has been referred to and authorised by a panel.</p> <p>When will the information be removed?</p> <p>Not applicable.</p>	2 years.

APPENDIX 2

Information that will be included in the List of persons removed from the Register

An entry in the List of persons removed from the Register must show:

- a. the name of the person
- b. the date on which the person was removed from the Register, and
- c. which of the circumstances in section 110(2) or (4) of the Regulation and Inspection of Social Care (Wales) Act 2016 caused their entry in the Register to be removed.

Note: Section 110(2) covers removals following a finding of impairment by a fitness to practise panel or fitness to practise review panel. Section 110(4) covers removal by agreement by a fitness to practise panel or a fitness to practise review panel.

The List will also show:²⁴

- d. the person's Social Care Wales registration number
- e. the county in which the person worked where relevant
- f. the part of the Register from which the person's name has been removed.

'Removal by agreement' (by a panel) entries in the List

1. If a panel has made a removal by agreement without addressing the question of impairment, the List will show the agreed statement of facts.
2. If a panel has made a removal by agreement following a review of an order, the Register entry will show the agreed statement of facts.
3. Entries in the List will remain in place unless and until the person's name is restored to the Register through a successful application to Social Care Wales, or a successful appeal to the Care Standards Tribunal.

²⁴ Items (e) and (f) will be visible for as long as the link to the Hearings website is active.