

2016 No. (W.)

SOCIAL CARE, WALES

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

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

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

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

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

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result

it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

OR

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

Draft 2

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(Constitution of Panels: Prescribed
Persons) Regulations 2016**

Made ***

Laid before the National Assembly for Wales

Coming into force ***

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

Title, commencement and application

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

(2) These Regulations come into force on [...].

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

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

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

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

(1) 2016 anaw 2.

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

“NMC” (“*CNB*”) means the Nursing and Midwifery Council established by article 3 of the Nursing and Midwifery Order 2001(1);

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

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

Prescribed persons – registration appeals panels

3. A person specified in Schedule 1 is prescribed(2) for the purposes of section 174(5)(b) of the Act to the extent that in—

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

Prescribed persons – fitness to practise panels

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

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

Prescribed persons – interim orders panels

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

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

Name

Minister for Health and Social Services, one of the Welsh Ministers

Date

(1) S.I. 2002/253.

(2) See section 189 of the Act for the definition of “prescribed”.

Prescribed persons – registration appeal panels

1.—(1) A person involved for the time being in an investigation under section 125 of the Act.

(2) A person appointed for the time being as—

(a) an assessor or examiner, or

(b) a legal or other adviser,

to the registration appeals panel.

2.—(1) Where a registration appeals panel is considering an appeal in accordance with section 98 or 99 of the Act following fitness to practise proceedings, a person who—

(a) has at any time been appointed to give preliminary consideration under section 119 of the Act to a matter may not be a member of the registration appeals panel to which an appeal relating to the matter is referred;

(b) has at any time been involved in an investigation under section 125 of the Act in relation to a matter may not be a member of a registration appeals panel to which an appeal relating to the matter is referred;

(c) is or has been a member of an interim orders panel whose proceedings related to a matter may not be a member of the registration appeals panel to which an appeal relating to the matter is referred;

(d) is or has been appointed as—

(i) an assessor or examiner, or

(ii) a legal or other adviser,

to an interim orders panel whose proceedings related to a matter may not be a member of the registration appeals panel to which an appeal relating to the matter is referred;

(e) is or has been a member of fitness to practise panel whose proceedings related to a matter may not be a member of the registration appeals panel to which an appeal relating to the matter is referred;

(f) is or has been appointed as—

(i) an assessor or examiner, or

(ii) a legal or other adviser,

to a fitness to practise panel whose proceedings related to a matter may not be a member of the registration appeals panel to

which an appeal relating to the matter is referred.

(2) Where the circumstances in sub-paragraph (3) apply, a person who has at any time considered or adjudicated upon a question or issue on behalf of the NMC.

(3) The circumstances are—

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

SCHEDULE 2 Regulation 4

Prescribed persons – fitness to practise panels

1.—(1) A person involved for the time being in an investigation under section 125 of the Act.

(2) A person appointed for the time being—

- (a) an assessor or examiner, or
- (b) a legal or other adviser,

to the fitness practise panel.

2.—(1) A person who has at any time been appointed to give preliminary consideration under section 119 of the Act to a matter may not be a member of the fitness to practise panel to which the matter is referred.

(2) A person who is or has been a member of an interim orders panel whose proceedings related to a matter may not be a member of the fitness to practise panel to which the matter is referred.

(3) A person who is or has been appointed as—

- (a) an assessor or examiner, or
- (b) a legal or other adviser,

to an interim orders panel whose proceedings related to a matter may not be a member of the fitness to practise panel to which the matter is referred.

(4) Where the circumstances in sub-paragraph (5) apply, a person who has at any time considered or adjudicated upon a question or issue on behalf of the NMC.

(5) The circumstances are—

- (a) the matter relates to a registered person who is also registered with the NMC; and
- (b) the NMC has considered or adjudicated upon a question or issue which relates to the

registered person's registration with the NMC and which also relates to the matter.

SCHEDULE 3 Regulation 5

Prescribed persons – interim orders panels

1.—(1) A person involved for the time being in an investigation under section 125 of the Act.

(2) A person appointed for the time being—

(a) an assessor or examiner, or

(b) a legal or other adviser as an adviser

to the interim orders panel.

2.—(1) A person who has at any time been appointed to give preliminary consideration under section 119 of the Act to a matter may not be a member of the interim orders panel to which the matter is referred.

(2) Where the circumstances in sub-paragraph (3) apply, a person who has at any time considered or adjudicated upon a question or issue on behalf of the NMC.

(3) The circumstances are—

(a) the matter relates to a registered person who is also registered with the NMC; and

(b) the NMC has considered or adjudicated upon a question or issue which relates to the registered person's registration with the NMC and which also relates to the matter.