



## Welsh Government Consultation Document

### Phase 1 implementation of the Regulation and Inspection of Social Care (Wales) Act 2016

Date of issue: 28 June 2016

Action required: Responses by 20 September 2016

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

**Overview** This consultation seeks your views on phase 1 of implementation of the Regulation and Inspection of Social Care (Wales) Act 2016, including regulations being made to support regulators, service providers and local authorities in delivering the requirements of the Act.

**How to respond** You can respond to this consultation by completing and returning, by midnight on the closing date, the consultation response form at the back of this document. The response should be sent to:

Legislation Implementation Branch  
Social Services Directorate  
Welsh Government  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

Alternatively the consultation response form is available on our website (<http://wales.gov.uk/consultations/?lang=en> ) and can be returned to us, by midnight on the closing date, via e-mail to: [R&ISCACT2016@wales.gsi.gov.uk](mailto:R&ISCACT2016@wales.gsi.gov.uk)

**Further information and related documents** **MS Word, Large print, Braille and alternative language versions of this document are available on request.**  
*Sustainable Social Services for Wales: A Framework for Action:*  
<http://wales.gov.uk/topics/health/publications/socialcare/guidance1/services/?lang=en>

Independent Commission on Social Services report:  
<http://gov.wales/docs/dhss/publications/101207visionen.pdf>

Law Commission Review of Adult Social Care Legislation:  
[www.justice.gov.uk/lawcommission/publications/1460.htm](http://www.justice.gov.uk/lawcommission/publications/1460.htm)

Report of the Protection of Vulnerable Adults Project Board:  
[www.wales.gov.uk/topics/health/publications/socialcare/reports/report/?lang=en](http://www.wales.gov.uk/topics/health/publications/socialcare/reports/report/?lang=en)

Well-being Statement for People Who Need Care and Support and Carers Who Need Support:  
[www.wales.gov.uk/topics/health/publications/socialcare/strategies/statement/?lang=en](http://www.wales.gov.uk/topics/health/publications/socialcare/strategies/statement/?lang=en)

Regulation and Inspection White Paper  
<http://gov.wales/consultations/healthsocialcare/support/?lang=en>

**Contact  
details**

For further information:

Address:

Legislation Implementation Branch  
Social Services and Integration Directorate  
Crown Buildings  
Cathays Park  
CARDIFF  
CF10 3NQ

email: [R&ISCACT2016@wales.gsi.gov.uk](mailto:R&ISCACT2016@wales.gsi.gov.uk)

telephone: 029 20 82 6498

**Data  
protection**

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the 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 the Welsh Government. 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.

## **The Foreword**

In 2011 the Welsh Government published the white paper *Sustainable Social Services: A Framework for Action*. This set out an ambitious plan to create a new integrated and person-centred approach to social services provision in Wales.

To achieve this new approach, in the last assembly term, we made two pieces of primary legislation; the Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016.

The 2016 Act establishes a new system of regulation and inspection which will uphold the rights of Welsh citizens to dignified, safe and appropriate care.

To create this environment we are updating the system of inspection and regulation of care providers. The new regulation and inspection regime will be stronger and will make it easier for the Care and Social Services Inspectorate Wales (CSSIW), as the service regulator, to maintain an overview of the whole service an organisation is providing. It will also make it easier for providers to register and for citizens to have information about providers.

At the same time, we are improving the regulation of the social care workforce, helping people working in care to develop their skills and provide the best care they can. This will be overseen by Social Care Wales – the successor to the Care Council for Wales which has extended powers and responsibilities. The legislation creates a register of care workers which will be managed by Social Care Wales; this register will allow us to stop people working in care who may abuse the trust and power associated with such an important role.

The 2016 Act creates the broad approach to the new regulation and inspection regime; the detail of the system will be set out in subordinate legislation, including regulations, a code of practice and guidance. The subordinate legislation will be developed over two phases. This consultation is on the first phase of regulations; we will hold another consultation, on the second phase, next year.

Social care touches the lives of everyone in Wales. At some point you, or someone close to you, may need to use regulated services. This is why it is so important to get the system of regulation and inspection right and why it is vital we get your views on our proposals. I would like to thank you for taking your time to read this consultation document and look forward to hearing your views.

**Rebecca Evans AM**  
**Minister for Social Services and Public Health**

## **Background**

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) was passed by the National Assembly for Wales on 24 November 2015 and received Royal Assent on 18 January 2016. It reforms the regulation and inspection regime for social care in Wales.

The 2016 Act provides the statutory framework for the regulation and inspection of social care services and the social care workforce. It enables the Welsh Ministers to put in place a number of items of subordinate legislation through the making of regulations, the publication of guidance and the issuing of codes of practice. It will allow the Welsh Government to:

- reform the regulatory regime for care and support services, to ensure it is focussed on outcomes for service users;
- reform the inspection regime for local authority social services functions;
- re-name and give new powers to the Care Council for Wales; and
- reform the regulation of the social care workforce.

## **The evidence for change and key principles**

A great deal has been achieved by regulators in Wales, principally by the Care and Social Services Inspectorate Wales (CSSIW) and the Care Council for Wales (CCW), and also by the wider social care sector, to achieve the ambitions articulated when the Care Standards Act 2000 was implemented. The framework, whereby CSSIW and CCW were the principal regulators, worked well for us and we therefore did not change this. It gave us a baseline of standards - both for the workforce and for our care and support services - and has improved public protection. This has achieved much greater consistency, protection from abuse and exploitation, and greater exposure of sub-standard services. We have succeeded in raising performance and continue to use regulation and inspection to eliminate poor standards. However, we recognised that many things were changing and identified the need to avoid our regulatory arrangements becoming out of date and restrictive. Our reform of the system for regulation and inspection under the 2016 Act therefore rests on five key principles:

1. Responsiveness to the 2014 Act’s reforms;
2. Ensuring citizens are at the heart of care and support;
3. Developing a coherent and consistent Welsh approach;
4. Tackling provider failure; and
5. Responsiveness to new models of service and any emerging concerns over the quality of care and support services.

The proposals in this consultation have a major part to play in serving this reform.

## **Where are we now?**

The Regulation and Inspection of Social Care (Wales) Act 2016 will be implemented by April 2019. The new system of workforce regulation established by the Act is intended to be implemented and operational by April 2017. To achieve this all workforce regulations will come into force in April 2017. The new system of service regulation and inspection established by the Act will be implemented and operational by April 2019. In order to allow sufficient time for the new system to be established all service regulations will have come into force in April 2018.

The statement of policy intent which was published when the legislation was introduced to the National Assembly in 2015 set out the broad proposals for exercising the subordinate legislation-making powers under the Act. Building upon this, the subordinate legislation under the Act is being developed in two overlapping phases.

The first phase includes the drafting of regulations required to achieve a new system of workforce regulation under the Act. It also focuses on draft regulations relating to some of the key processes underpinning the new system of service regulation – these are the requirements for registration as a service provider, variation of registration, service provider annual returns, and information to be included in notifications to local authorities. It also includes regulations relating to the requirements for annual reports by directors of social services. The development of these draft regulations was informed by stakeholder technical groups held in February 2016.

The remaining service-related regulations will be drafted and consulted upon in the second phase. The regulations which place requirements on service providers and responsible individuals (under sections 27 and 28 of the Act) will be developed as part of the second phase. These regulations are absolutely critical to the new system and there is naturally a great deal of interest in them. We will be working very closely with stakeholders to develop the content of these regulations. We intend to convene stakeholder technical group meetings to inform the development of these particular regulations from September 2016 onwards. If you wish to be involved please contact us via [R&ISCACT2016@wales.gsi.gov.uk](mailto:R&ISCACT2016@wales.gsi.gov.uk).

Many of the regulation-making powers in the Act are interlinked. The content of the regulations developed as part of the second phase may mean that changes are required to the detail of the service-related regulations developed as part of the first phase. We will make information about any such changes publicly available to accompany the laying of these regulations late in 2017.

## **This consultation**

This consultation seeks your views on the regulations which have been drafted as part of the first phase. During this phase we have also developed proposals about the definition of a regulated advocacy service for the purposes of paragraph 7 of schedule 1 of the Act.

More information on the draft regulations in the first phase may be found under the proposal section below.

### **The proposals**

The following paragraphs set out further detail on the proposed regulations covered by this consultation and the proposed definition of advocacy services for the purposes of the Act.

## **Service Regulations**

### **Summary of service-related regulations**

- There are 3 sets of service-related regulations being considered as part of this consultation. They are made under the regulation-making powers in sections 6, 10, 11 and 39 of the Act.
- The draft regulations cover an application for registration as a service provider (section 6); the form, content and time limit for annual returns by service providers (section 10); an application for variation of registration as a service provider (section 11); and notifications to local authorities about certain actions (section 39).
- The regulations have been developed with reference to the existing regulatory framework.

### **Regulations about an Application for Registration as a Service Provider (ANNEX A)**

The Welsh Ministers have the function of regulating care and support services in Wales. The Care and Social Services Inspectorate Wales (CSSIW), the service regulator, carries out this function on behalf of the Welsh Ministers. The Act establishes a revised set of processes in terms of registration by service providers. This includes the requirement to register in Wales when services are delivered in Wales and the processes associated with the application, variation and cancellation of registration. It brings into effect a service-based approach requiring a single application for registration (regardless of the number of services to be provided) which may subsequently be varied to allow the provision of additional services at additional locations.

The policy intention is to provide a more flexible and streamlined approach. This approach will provide flexibility to providers with regard to registering the services they wish to provide and the places at which they wish to provide them. It is also intended to provide greater flexibility to the service regulator in the way it carries out its enforcement procedure.

The aim is to provide sufficient information at the point of registration for the service regulator to make a sound judgement as to the suitability of the applicant to deliver the regulated service, the suitability of the responsible individual, the nature of the service to be delivered and the location at which it is to be delivered. Some matters will need to be tested and assessed through



interview. The intention is for the requirements on providers to be proportionate and to minimise duplication and unnecessary information gathering.

Section 6 of the Act sets out the process by which a person may apply to the Welsh Ministers to become a service provider. Some of the information to be included in the application for registration as a service provider is set out on the face of the Act. This includes the services to be provided, the places at, from or in relation to which the services are to be provided, the designation of a responsible individual in respect of each such place and each such individual's name and address.

There are two regulation-making powers in section 6 – section 6(1)(d) and section 6(2). Regulations under section 6(1)(d) allow the Welsh Ministers to set out further information required in an application for registration to provide a care and support service. Section 6(2) allows the Welsh Ministers to prescribe the form of an application made under this section.

The draft regulations under Section 6(1)(d) set out further information which will be required as part of the application. The content of the draft regulations is intended to ensure that the service regulator has access to all the relevant information it requires in order to make and support its decision to grant or refuse an application for registration as a service provider.

Discussions with the stakeholder working group and the service regulator have not identified any information or documentation currently required which is considered to be superfluous or deficient. The information and documentation requirements in the draft regulations under section 6(1)(d) are therefore based on the existing regulations (Registration of Social Care and Independent Health Care (Wales) Regulations 2002) but the requirements have been adapted to the new model of service regulation and the language and terminology have been modernised.

The existing regulations include a reference to a document called a 'statement of purpose'. This is a written statement containing detailed information about the service to be provided – the requirements in relation to which are set out in the existing service, establishment, agency-specific regulations. The stakeholder technical group was supportive of some form of statement of purpose being retained. The approach which has been taken in the draft regulations is to require a statement of purpose in the application for registration for each service and to specify what it must contain. The intention is that this will contain information which will assist the service regulator in reaching its decision. It is intended that there will be a further requirement in the regulations to be made under section 27 of the Act for the service provider to deliver the service in accordance with the statement of purpose and to keep

the statement of purpose up to date. The initial statement of purpose will form part of the application form. The template for the updated statement of purpose will also be on the regulator's website. It is intended that the service regulator's ICT systems will have the functionality to reduce the administrative burden on providers, for example by auto-populating the updated statement, where appropriate. It is not intended that there will be a requirement to publish the statement of purpose. However, some of the information contained in the statement of purpose which is considered to be of interest to citizens and particularly those seeking care and support services for themselves or their loved ones will be required to be included in the provider annual returns under section 10 of the Act. This is set out in more detail below.

Section 6(2) allows regulations to be made prescribing the form of the application. The application form to be used will be the one published on the service regulator's website. It is intended that the service regulator's ICT systems will have the functionality for applications to register to be made online.

### **Regulations about Provider Annual Returns (ANNEX B)**

Section 10 of the Act places a requirement on service providers to produce an annual return. The policy intention is that the provider annual return will be a public facing document which will be published on the service regulator's website alongside the service provider's latest inspection report. This is intended to provide greater transparency and to ensure that people have access to relevant information in order to determine the best services for their needs and to enable them to make comparisons between service providers. The aim of the draft regulations is to ensure that every service provider, regardless of their size or corporate structure, is required to complete an annual return in a consistent way. It is intended that the information required in the provider annual return will be proportionate, factually-based, current and consistent across services.

The Act requires that each service provider must submit an annual return following the end of the financial year. Some of the information which a provider annual return must contain is set out on the face of the Act. This includes details about the provider's registration, the name of the responsible individual and the number of persons to whom care and support services have been provided. Section 10(2) allows regulations to require further information to be included in the provider annual return including information about training and workforce planning. The approach taken here has been to focus mainly on quantitative information which it is considered will be useful to the public and which is objective and readily comparable. Much of this information will already be being provided – for example, at registration or

through the updated statement of purpose - and so will not place an additional burden on the service provider. The qualitative information about the service will be included in the requirements under section 10(b) – please see below.

Section 10(3) allows regulations to be made prescribing the form of the provider annual return. The form of the annual return to be used will be the one published on the service regulator's website. It is intended that the service regulator's ICT systems will have the functionality for provider annual returns to be submitted online and, where relevant, for the information in the annual returns to be auto-populated. The service provider and responsible individual will be required to check the accuracy of the information and to make declarations to that effect.

Section 10(4) allows regulations to be made setting out the time limit for the provider annual return to be submitted. The draft regulations provide for the time limit to be 28 days following the end of the financial year.

Section 10(2)(b) requires that there is a statement in the return setting out how the service provider has complied with regulations made under section 27(1) of the Act specifying the standard of care and support that must be provided by a service provider. Regulations under section 27, placing requirements on service providers, are being developed in the second phase. Section 10(2)(b) does not contain a regulation-making power. The current position is that service providers undertake an annual quality of service review and provide the service regulator with a quality report for each of their services. These are used to inform inspections but are not required to be published. The intention is that the regulations to be made under section 28, placing requirements on responsible individuals, will require the responsible individual to undertake an annual quality of care review of each service and that the output of that review will fulfil the requirement in section 10(2)(b). Consequently this requirement will be fulfilled without placing an additional reporting requirement on providers.

### **Regulations about Application for Variation of Registration as a Service Provider (ANNEX A)**

Section 11 of the Act deals with arrangements relating to applications for the variation of registration as a service provider. Variations may include providing additional services or an existing service from an additional place and ceasing to provide a service or a service from a specific place. The Act requires that an application for variation of registration must contain the details of the variation sought by the provider. The requirements relating to the variation of registration as a service provider are contained in the draft Regulated Services (Registration) (Wales) Regulations 2017. These

regulations will ensure that applications for variation are fit for purpose and contain the necessary level of detail for the regulator to reach a decision.

The policy intention is to provide a more flexible, streamlined approach to the system of regulation. It is also intended to avoid unnecessary duplication in the information and documentation requirements when service providers have previously satisfied the requirements for initial registration.

Section 11(2) allows for the setting of a time limit within which an application for variation must be made in circumstances where there is no longer a designated responsible individual. The draft regulations provide that this time limit will be 28 days.

Section 11(3)(a)(iii) is a regulation-making power to prescribe further information to be included in the application to vary registration. Draft regulations 5 to 8 specify the information and documentation requirements that are to be provided on an application to vary registration. It is intended that the service regulator's ICT systems will have the functionality to streamline the process for applications for variation of registration. It is intended that it will sift out information which is not necessary to provide again because the regulator will already have it.

Section 11(3) (b) is a regulation making power to prescribe the form of the application. The form will be the one provided on the service regulator's website. It is intended that the service regulator's ICT systems will have the functionality for applications for variation of registration to be submitted online.

### **Regulations on notifying local authorities (ANNEX C)**

Local authorities are commissioners of regulated services and custodians of social services functions. They need to be informed when certain actions have been taken against service providers by the service regulator (CSSIW). This allows local authorities to take appropriate action, if necessary, to ensure the safeguarding of people using services managed by that provider.

Section 39 of the Act retains the current duties to notify local authorities in England and Wales of certain actions taken by the regulator on behalf of Welsh Ministers.

Section 39(1) of the Act lists the actions which will trigger a notification. Section 39(1)(g) is a regulation-making power to prescribe other actions of which local authorities must be notified and section 39(2) is a power to prescribe the information which is contained in these notifications.

The power in section 39(1)(g) is being used to require the Welsh Ministers to notify local authorities about appeals made by service providers in respect of key regulatory decisions made by both the regulator and the Court and the

subsequent decisions made by the tribunal in consequence of any such appeal.

The information requirements set out in the regulation-making powers under section 39(2) have followed the approach taken under the Care Standards Act 2000 (Notifications) (Wales) Regulations 2011. The draft regulations set out the information to be contained in every notification in detail.

## Definition of Advocacy Services

Section 2(1)(g) of the Act identifies advocacy services as a regulated service. In recognition of the broad range of advocacy services made available for people, the Welsh Ministers took powers to specify through regulations the type of advocacy services that will fall within the scope of the Act.

Under the Act it will be an offence for a person to provide a regulated service without being registered. Our proposals for what this means for providers of advocacy services as a regulated service are set out above.

The Welsh Government has undertaken development work with a small technical group made up of representatives with expertise, technical knowledge and practical experience of advocacy. The Group has indicated that the Welsh Ministers should align the definition of advocacy services under the 2016 Act with the definition of Independent Professional Advocacy (IPA) as set out in the code of practice on the exercise of social services functions in relation to advocacy under Part 10 and related Parts of the Social Services and Well-being (Wales) Act 2014 (<http://gov.wales/docs/dhss/publications/151218part10en.pdf>).

Independent professional advocacy (IPA) - involves a one-to-one partnership between an independent professional advocate who is trained and paid to undertake their professional role as an advocate [and an individual]. This might be for a single issue or multiple issues. Independent professional advocates must ensure individuals' views are accurately conveyed irrespective of the view of the advocate or others as to what is in the best interests of the individuals.

This is to reflect the role IPAs will play in supporting an individual to express their views, wishes and feelings where a local authority is exercising their functions under the 2014 Act.

This is a complex area where individuals have statutory entitlements to advocacy under different pieces of legislation. It is proposed that the requirements imposed through the 2016 Act regulated service framework should not extend to advocacy entitlements such as the Mental Health Act, the Mental Capacity Act 2005 nor the National Health Services (Wales) Act 2006 or other legislation specified under section 182 of the Social Services and Well-being (Wales) Act 2014.

There are organisations which we anticipate will provide IPA (as defined by the code) but this will be only one of a number of functions and services that that organisation provides for individuals. It is our view that the requirements of the 2016 Act would apply only to the IPA component rather than to the full range of an organisation's programme of functions and services which could, for example, include information, advice and assistance or counselling.

Nor would the requirements of the 2016 Act apply to the range of other advocacy services identified in Chapter 8 of the advocacy code of practice, for example, informal, collective or peer advocacy. The requirements of the 2016 Act would relate solely to IPA commissioned by local authorities to provide

advocacy to support individuals to express their views, wishes and feelings as specified in the advocacy code of practice.

Section 79(1)(b) and (c) of the 2016 Act define social care worker for the purposes of advocacy services under the Act. This will include a person:-

- i. who manages a place at or from which a regulated service is provided;  
or
- ii. who, in the course of their employment with a service provider, provides care and support to any person in Wales in connection with a regulated service provided by that provider.

Subject to the consultation proposals above that define advocacy services under the Act, independent professional advocates will come within the scope of the definition of social care worker as defined by both section 79(1)(b) and (c).

Individuals coming within the scope of the definition of social care worker may be subject to the requirements of Parts 3 to 8 of the Act. This means that an independent professional advocate would:

- fall within the scope of SCW's functions;
- be subject to codes which SCW produces; and
- be within the range of activity where SCW has a duty to provide high standards in services, conduct and practise etc.

A requirement to register with SCW would only apply if independent advocates were included in the descriptions of social care workers that are prescribed in regulations under section 80(1)(b).

It is proposed that the Welsh Ministers exercise this power to prescribe only those who manage a place at or from which relevant advocacy services are provided.

This would be in addition to the need for the advocate or the advocacy practice to register as a service provider under Part 1 of the Act.

Further detail about the proposals in relation to the requirements of the workforce regulations is set out in the following paragraphs.

## **Workforce Regulations**

### **Summary of workforce regulations**

- There are six sets of workforce regulations being considered as part of this consultation. They are to be made using the regulation-making powers under sections 79, 80, 91, 110, 174 and 175 of the Act.
- These regulations cover the meaning of 'social care worker'; the content of the register maintained by Social Care Wales, the form and content of the list of persons removed from the register and the duty to establish a panel and the proceedings before panels.
- The regulations have been developed using the existing regulations and rules under the Care Standards Act as a framework to build upon.

### **Regulations on the meaning of “Social Care Worker” (ANNEX D)**

Section 79(1) sets out the meaning of 'social care worker' for the purposes of Parts 3 to 8 of the Act. The regulations drafted under section 79(2) prescribe those workers who are to be treated as social care workers. The resulting list, which is set out on the face of the Act at section 79(3), is broadly the same as currently and covers responsible individuals designated by service providers, student social workers, inspectors of care services and persons who provide care and support in connection with care and support services which are not “regulated services”. These regulations are essential to ensure that there is clarity as to who are social care workers for the purposes of the Act and for the activities of Social Care Wales.

### **Regulations on the Register (ANNEX E)**

Section 80 deals with the register of social workers, prescribed social care workers and visiting social workers from relevant European States to be kept by Social Care Wales. The proposed regulations under section 80(1)(b) prescribe the categories of social care workers, in addition to those specified within the Act, for whom Social Care Wales must keep a register. Specifically, these are managers of regulated services, children's residential care workers and student social workers. These regulations deliver our policy intention that those who are currently required to register will continue to be registered. These regulations are required to enable such workers to remain registered under the Act.



## **Regulations on the content of the Register (ANNEX F)**

Section 91 deals with the content of the register kept by Social Care Wales. The proposed regulations under section 91(1)(c) prescribe other qualifications, knowledge or experience which must be included in a person's entry on the register. The use of this will include for example qualifications necessary for the performance of specific roles in social care. Section 91(1)(d) regulations prescribe information relating to the registrant's fitness to practise to be included in the register entry. Similar provision is currently contained in rules made by the Care Council. The regulations specify similar information to that which currently appears in the register in relation to a registered person's fitness to practise. This will mean that any determination that a person's fitness to practise is impaired and any current fitness to practise sanction, including the details of any conditions on practice (except those relating to the registrant's health) will be entered on the register. Clarity about the content of the register is integral to the regulation of the workforce.

## **Regulations on list of persons removed from the register (ANNEX G)**

Section 110 requires Social Care Wales to keep a list of persons removed from the register. The proposed regulations under section 110(6) prescribe the content of the list and how it is to be published. The regulations require that the name of the person concerned and the date and circumstance of their removal from the register are recorded, and entrust the publication of the list to Social Care Wales. The establishment and maintenance of a published list of persons removed from the register is an integral aspect of the regulation of the workforce and of maintaining public assurance.

## **Regulations on the duty to establish panels etc (ANNEX H)**

Section 174 deals with the requirement for Social Care Wales to establish panels. The proposed regulations under section 174 (5)(b) add people connected with the Nursing and Midwifery Council and those who have previously been involved in investigating the matter under consideration to the list of persons who may not be a panel member. This will ensure that each type of panel is sufficiently separated to provide independence in each of the panel processes.

## **Regulations on proceedings before panels (ANNEX I)**

Section 175 deals with proceedings before panels. The proposed regulations under section 175(1) make provision in connection with proceeding before registration panels; interim orders panels; and fitness to practise panels. For

example, they put in place a new overriding objective of fairness for each panel.

## **Regulations on Local Authority Social Services Annual Reports (ANNEX J)**

Section 56 of the Act amends Part 8 of the Social Services and Well-being (Wales) Act 2014 to insert section 144A, which requires the production of an annual report by a local authority in relation to the exercise of its social services functions. The annual report must be in such form as prescribed by regulations under section 144A (4).

These draft regulations set out that an annual report must be in the form of a template to be issued by Welsh Ministers. This will standardise reports, make them clearer, and allow for comparisons between local authorities. The content to be included in these reports is already set out in the Code of Practice on the role of Director of Social Services, made under Part 8 of the Social Services and Well-being (Wales) Act 2014. This was developed by a technical group which consisted of key partners, and was consulted on in 2015, then subsequently issued in March 2016:

<http://gov.wales/docs/dhss/publications/160322part8en.pdf>

The template is being developed with key partners. It will be published alongside the regulations when they are laid before the National Assembly for Wales.

**Consultation  
Response  
Form**

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

## **Service Regulations**

### **Regulations about an Application for Registration as a Service Provider**

- 1. Do you agree that the requirements for information and documentation as set out in the draft regulations are relevant and proportionate? If not, why not?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
-----------------------------------	---	--	--------------------------------------

Please explain

### **Regulations about an Application for Registration as a Service Provider**

- 2. Are there any additional requirements which should be considered? If so, what are they and why?**

Please explain

**Regulations about Provider Annual Returns**

- 3. Do you agree that the requirements for the content of the provider annual returns as set out in the draft regulations are sufficient to provide the public with the information required to determine the best services for their needs and to enable them to make comparisons between services providers? If not, what are the additional requirements?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

**Regulations about Provider Annual Returns**

- 4. Do you agree with the proposed timing for making an annual return (28 days after the end of the financial year)?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

**Regulations about Provider Annual Returns**

- 5. Are any of the requirements unnecessary? If so, which are they and why?**

Please explain

<b>Regulations about an Application for Variation of Registration as a Service Provider</b>			
<b>6. Do you agree that the requirements for information and documentation as set out in the draft regulations are relevant and proportionate? If not, why not?</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>Regulations about an Application for Variation of Registration as a Service Provider</b>			
<b>7. Are there any additional requirements which should be considered? If so, what are they and why?</b>			
Please explain			
<b>Regulations about the Application for Variation of Registration as a Service Provider</b>			
<b>8. Do you agree with our proposals for the time limit within which an application to vary must be made where there is no responsible individual?</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			

### Regulations on notifying local authorities

**9. Do you agree that the list of notifiable incidents contained in the Act is comprehensive? If not, what additional incidents would you like to see included?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

### Regulations on notifying local authorities

**10. Do you agree that the draft regulations set out a system of notification which will provide local authorities with the information they require? If not, what information would you like to see excluded from the report or what further information do you think would be useful to include?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

## Workforce Regulations

### Regulations on the meaning of “Social Care Worker”

**11. Do you agree with the proposed definition of social care worker?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

<b>Regulations on the meaning of “Social Care Worker”</b>			
<b>12. Do you support all those persons listed in the consultation document being considered as social care workers? If not, why not?</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>Regulations on the meaning of “Social Care Worker”</b>			
<b>13. Do you think that we should exempt certain descriptions of persons? If so, who and why?</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>Regulations on the meaning of “Social Care Worker”</b>			
<b>14. Are there any risks in continuing to have a wide and inclusive approach – for example, are there any groups whom it may be disproportionate to expect to meet the requirements of the Code of Practice? Is there a risk that being too broad will dilute the work of Social Care Wales so that it is insufficiently concentrated upon those at the heart of the sector?</b>			
Please explain			



<b>Regulations on the register</b>			
<b>15. Do you consider that the current method for registration of social workers is working well? Are there any issues that have arisen?</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>Regulations on the register</b>			
<b>16. Is there anything unhelpful or problematic about the proposed regulations on the register?</b>			
Please explain			
<b>Regulations on the content of the register</b>			
<b>17. Do you agree that the regulations applying to qualifications require the right range of information to be included on the register?</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			

**Regulations on the content of the register**

**18. Should the regulations replicate the existing position in relation to the inclusion of fitness to practice decisions? Are there any disadvantages to this approach?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

**Regulations on the list of persons removed from the register**

**19. Do the regulations require the right range of information to be included on the list?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

**Regulations on the list of persons removed from the register**

**20. Do the regulations put in place the right approach to publishing the list?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

<b>Regulations on the duty to establish panels etc.</b>			
<b>21. Do you agree with the approach to excluding people from membership of the various panels? If not, please explain why.</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>Regulations on proceedings before panels.</b>			
<b>22. Do you agree with the content of the regulations relating to the way that panels will operate? If not, please explain why.</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>Regulations on proceedings before panels.</b>			
<b>23. Do you agree that the regulations are focusing on issues that should be set out in regulations?</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			

## Regulations on Local Authority Social Services Annual Reports

**24. Do you consider that the proposed approach will adequately support our objectives for Local Authority Social Services Annual Reports?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

## Regulation of Advocacy Services

**25. Do you agree that the regulation of advocacy services should focus upon Independent Professional Advocacy as defined in the Code of Practice on the exercise of social services functions in relation to advocacy under Part 10 and related Parts of the Social Services and Well-being (Wales) Act 2014?**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

**26. Do you consider that the requirements of the 2016 Act should apply to an individual practitioner operating as a stand-alone business? If not, please provide brief evidence.**

Agree

☐

Tend to agree

☐

Tend to disagree

☐

Disagree

☐

Please explain

<b>27. Do you consider that implementation of the requirements of the 2016 Act for advocacy services should be phased by sector e.g. advocacy services for looked after and other specified children followed by independent professional advocacy? If so, please provide brief evidence.</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>28. What is the anticipated impact for advocacy providers as a registered service under the Act?</b>			
Please explain			
<b>29. Do you agree that only those who manage advocacy services, as a regulated service, should be required to register with Social Care Wales? If not, please provide brief evidence.</b>			
Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
Please explain			
<b>Other</b>			
<p>The Welsh Government is interested in understanding whether the proposals in this consultation document will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.</p> <p><b>30. Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?</b></p>			

**31. Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?**

**32. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.**

**Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please enter YES in the box.**