



Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

PART 6

SOCIAL CARE WORKERS: FITNESS TO PRACTISE

CHAPTER 1

FOUNDATIONS OF IMPAIRMENT

117 Fitness to practise

- (1) A person's fitness to practise may be regarded as impaired for the purposes of this Part and Part 4 by reason only of one or more of the following grounds—
- (a) deficient performance as a social care worker;
 - (b) serious misconduct (whether as a social care worker or otherwise);
 - (c) the inclusion of the person in a barred list;
 - (d) a determination by a relevant body to the effect that the person's fitness to practise is impaired;
 - (e) adverse physical or mental health;
 - (f) a conviction or caution in the United Kingdom for a criminal offence, or a conviction or caution elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence.
- (2) For the purposes of subsection (1)(a) “deficient performance as a social care worker” may include—
- (a) an instance of negligence,
 - (b) a breach of an undertaking agreed with SCW under this Act, and
 - (c) a breach of an undertaking agreed with a fitness to practise panel under this Act.

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- (3) In subsection (1)(c) “barred list” means—
- (a) a list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006 (c.47);
 - (b) a list kept under section 1 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14);
 - (c) a list maintained under article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351).
- (4) In subsection (1)(d) “relevant body” means—
- (a) the Health and Care Professions Council [^{F1}or Social Work England];
 - (b) the Nursing and Midwifery Council;
 - (c) the Scottish Social Services Council;
 - (d) the Northern Ireland Social Care Council;
 - (e) a body outside of the United Kingdom which is responsible for the regulation of activities which would, in Wales, be regulated by SCW;
 - (f) a prescribed body.
- (5) A person's fitness to practise may be regarded as impaired by reason of matters arising or incidents occurring—
- (a) whether inside or outside of Wales;
 - (b) whether or not the person was registered on the register at the time;
 - (c) whether before or after this section comes into force.
- (6) The Welsh Ministers may by regulations amend subsection (1) for the purpose of adding, modifying or removing a ground of impairment.

Textual Amendments

F1 Words in s. 117(4)(a) inserted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\), s. 70\(2\), Sch. 5 para. 41\(b\)](#); S.I. 2019/1436, reg. 2(s)

Commencement Information

II S. 117 in force at 3.4.2017 by [S.I. 2017/309, art. 2\(e\)](#) (with [arts. 3, 4, Sch.](#))

CHAPTER 2

PRELIMINARY PROCEDURES

Preliminary consideration of allegations etc.

118 Referral of allegations etc. of impaired fitness to practise

- (1) This section applies where—
- (a) an allegation is made to SCW that a registered person's fitness to practise is impaired, or
 - (b) SCW otherwise has reason to believe that a registered person's fitness to practise may be impaired.
- (2) SCW—

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- (a) must refer for preliminary consideration the matter which is the subject of the allegation or its reason to believe that the registered person's fitness to practise may be impaired, and
- (b) may refer the matter to an interim orders panel (see Chapter 4).

Commencement Information

I2 S. 118 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

119 Preliminary consideration

- (1) The person giving preliminary consideration to a matter referred by SCW must refer that matter for investigation under section 125 unless—
 - (a) the person determines that the matter is not eligible for onward referral under section 120, or
 - (b) the person is required by section 121 to refer the matter directly to a fitness to practise panel.
- (2) The person giving preliminary consideration to a matter may, at any stage, refer the matter to an interim orders panel (in addition to making a referral or determination under subsection (1)).
- (3) SCW must by rules make provision about the procedure for preliminary consideration which may, in particular, provide for preliminary consideration to be carried out by—
 - (a) one or more persons appointed for that purpose, on such terms and conditions (including remuneration) as SCW may determine;
 - (b) one or more members of SCW's staff.
- (4) But rules made under subsection (3) may not provide for preliminary consideration to be carried out by—
 - (a) a person who is a member of—
 - (i) SCW,
 - (ii) [F²Social Work England],
 - (iii) the Scottish Social Services Council, or
 - (iv) the Northern Ireland Social Care Council;
 - (b) a person who is a member of a fitness to practise panel;
 - (c) a person who is a member of an interim orders panel;
 - (d) a prescribed person.
- (5) SCW must make such arrangements as it thinks appropriate to facilitate co-operation between—
 - (a) a person who has made an allegation that a registered person's fitness to practise is impaired, and
 - (b) the person giving preliminary consideration to the allegation.

Textual Amendments

F2 Words in s. 119(4)(a)(ii) substituted (2.12.2019) by Children and Social Work Act 2017 (c. 16), s. 70(2), Sch. 5 para. 42(b); S.I. 2019/1436, reg. 2(s)

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

Commencement Information

I3 S. 119 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(e\)](#) (with [arts. 3, 4](#), [Sch.](#))

120 Eligibility for onward referral

- (1) A matter is eligible for onward referral unless—
- (a) the matter relates to conduct or an incident which occurred 5 years or more before the relevant date and none of the exceptions in subsection (4) apply,
 - (b) the person appointed to give the matter preliminary consideration thinks the allegation is vexatious, or
 - (c) where an allegation has been made anonymously, or by a person who fails to co-operate with the preliminary consideration procedure, the person appointed to give the matter preliminary consideration is unable to verify it.
- (2) In subsection (1) the reference to onward referral is a reference to—
- (a) referral to a fitness to practise panel under section 121, or
 - (b) referral for investigation under section 125.
- (3) In subsection (1)(a) “relevant date” means—
- (a) the date of the allegation under section 118(1)(a), or
 - (b) where an allegation has not been made under that section, the date on which SCW first became aware of the matter.
- (4) For the purposes of subsection (1)(a) the exceptions are—
- (a) the matter relates to a registered person's conviction for a relevant criminal offence;
 - (b) the matter relates to the inclusion of the registered person in a barred list (as defined in section 117);
 - (c) the matter relates to a determination by a relevant body (as defined by section 117) to the effect that a registered person's fitness to practise is impaired;
 - (d) the person giving the matter preliminary consideration thinks that it is in the public interest for the matter to be referred for investigation.
- (5) For the purposes of subsection (4)(a) and section 121, a relevant criminal offence is—
- (a) in the case of a conviction by a court in the United Kingdom, an offence in respect of which a custodial sentence was, or could have been, imposed, or
 - (b) in the case of a conviction by a court elsewhere, an offence in respect of which, had the offence been committed in England and Wales a custodial sentence could have been imposed.
- (6) In subsection (5) “custodial sentence” has the meaning given by section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6) [^{F3}or section 222 of the Sentencing Code].

Textual Amendments

F3 Words in s. 120(6) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 309\(1\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

Commencement Information

I4 S. 120 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(e\)](#) (with [arts. 3, 4, Sch.](#))

121 Direct referral to a fitness to practise panel

A person giving preliminary consideration to a matter must refer it directly to a fitness to practise panel—

- (a) if the matter relates to the conviction of a registered person for a relevant criminal offence (see section 120(5)), and
- (b) in such other circumstances as may be specified by SCW in rules.

Commencement Information

I5 S. 121 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(e\)](#) (with [arts. 3, 4, Sch.](#))

122 Notice: ineligibility for onward referral

- (1) This section applies where a person giving preliminary consideration to a matter determines that the matter is not eligible for onward referral under section 120(1).
- (2) SCW must give notice of the determination to the relevant persons, unless SCW thinks that it is not in the public interest to do so.
- (3) For the purposes of subsection (2) “the relevant persons” are—
 - (a) the registered person to whom the matter relates, and
 - (b) where the matter was the subject of an allegation mentioned in section 118(1)
 - (a), the person who made the allegation.
- (4) SCW may give notice to any other person that a matter is not eligible for onward referral where it is satisfied that it is in the public interest to do so.
- (5) SCW may by rules make provision about—
 - (a) the content of a notice under this section, and
 - (b) the procedure for giving notice.

Commencement Information

I6 S. 122 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(e\)](#) (with [arts. 3, 4, Sch.](#))

123 Notice: onward referral

- (1) This section applies where, on conclusion of a preliminary consideration under section 119, a matter is referred—
 - (a) to a fitness to practise panel under section 121, or
 - (b) for investigation under section 125.
- (2) SCW must give notice to—
 - (a) the registered person to whom the matter relates;

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- (b) where the matter was the subject of an allegation mentioned in section 118(1)(a), the person who made the allegation;
 - (c) each person by whom, to the knowledge of SCW, the registered person is employed as a social care worker;
 - (d) each person who, to the knowledge of SCW, has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker;
 - (e) such other persons as may be prescribed.
- (3) SCW must by rules make provision about giving notice under subsection (2).
- (4) The rules may, in particular, make provision about—
- (a) the content of a notice;
 - (b) the procedure for giving notice;
 - (c) the period within which notice must be given.

Commencement Information

I7 S. 123 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

124 Notice: referral to an interim orders panel

Where a person refers a matter to an interim orders panel under section 118(2)(b) or 119(2) SCW—

- (a) must give notice of the referral to—
 - (i) the registered person to whom the matter relates, and
 - (ii) where the matter was the subject of an allegation mentioned in section 118(1)(a), the person who made the allegation, and
- (b) may give notice of the referral to any other person if SCW thinks it is in the public interest to do so.

Commencement Information

I8 S. 124 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

Investigation

125 Duty to investigate

- (1) SCW must investigate, or make arrangements for the investigation of, a matter referred under section 119 in respect of a registered person's fitness to practise.
- (2) The person conducting an investigation under this section may, at any stage during the investigation, refer the matter to an interim orders panel.
- (3) SCW must by rules make provision about the arrangements for investigations under this section.
- (4) Rules made under subsection (3) may, in particular, make provision for—

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- (a) the registered person to make representations to the person conducting the investigation;
 - (b) investigations to be carried out by a member of SCW's staff;
 - (c) the appointment of one or more individuals for the purpose of conducting an investigation;
 - (d) the appointment of persons to provide assistance in relation to an investigation.
- (5) But rules made under subsection (3) may not provide for an investigation to be carried out by—
- (a) a person who is a member of—
 - (i) SCW,
 - (ii) [^{F4}Social Work England],
 - (iii) the Scottish Social Services Council, or
 - (iv) the Northern Ireland Social Care Council;
 - (b) a person who is a member of a fitness to practise panel;
 - (c) a person who is a member of an interim orders panel;
 - (d) a prescribed person.

Textual Amendments

F4 Words in s. 125(5)(a)(ii) substituted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(2), [Sch. 5 para. 43\(b\)](#); S.I. 2019/1436, reg. 2(s)

Commencement Information

I9 S. 125 in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(e\)](#) (with [arts. 3, 4](#), [Sch.](#))

126 Powers following an investigation

- (1) This section applies where the investigation of a matter relating to a registered person's fitness to practise has been concluded.
- (2) SCW must refer the matter to a fitness to practise panel if it is satisfied that—
- (a) there is a realistic prospect of the panel finding that the registered person's fitness to practise is impaired, and
 - (b) it is in the public interest to refer the matter.
- (3) Where the matter is not referred to a fitness to practise panel, SCW may—
- (a) decide to take no further action in respect of the registered person;
 - (b) give advice to the registered person, or to any other person involved in the investigation, in respect of any matter related to the investigation;
 - (c) issue a warning to the registered person in respect of future conduct or performance;
 - (d) agree with the registered person that he or she will comply with such undertakings as SCW thinks appropriate;
 - (e) grant an application under section 92 by the registered person for his or her entry in the register to be removed by agreement.

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

Commencement Information

I10 S. 126 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

127 Notice: referral or disposal

- (1) SCW must give notice to the persons listed in subsection (2) of—
 - (a) the referral of a matter to an interim orders panel under section 125(2);
 - (b) the referral of a matter to a fitness to practise panel under section 126(2);
 - (c) the way in which the matter has been disposed of under section 126(3).
- (2) The persons are—
 - (a) the registered person to whom the matter relates, and
 - (b) where the matter was the subject of an allegation mentioned in section 118(1)(a), the person who made the allegation.
- (3) SCW may give notice to any other person of the referral or disposal of a matter under section 126 if satisfied that it is in the public interest to do so.
- (4) A notice under this section must give the reasons for the referral.

Commencement Information

I11 S. 127 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

128 Warnings

- (1) Where SCW is proposing to issue a warning to a registered person, SCW must—
 - (a) notify the registered person of its intention, and
 - (b) notify that person of the right to request an oral hearing for the purpose of determining whether or not to give a warning.
- (2) SCW must by rules make provision about—
 - (a) the period within which a request for an oral hearing may be made;
 - (b) the arrangements and procedure for an oral hearing.
- (3) SCW must grant a request for an oral hearing if the request is made in accordance with the requirements of rules made under subsection (2).

Commencement Information

I12 S. 128 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

129 Undertakings

- (1) SCW must by rules make provision about the agreement of undertakings under section 126(3)(d).
- (2) The rules may, in particular, make provision about—
 - (a) the procedure to be followed for the agreement of undertakings;

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- (b) the procedure to be followed in the event of a breach of an undertaking;
- (c) the consequences of a breach of an undertaking;
- (d) periodic review of a requirement to comply with an undertaking.

Commencement Information

I13 S. 129 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

130 Mediation

- (1) The Welsh Ministers may by regulations provide, or authorise SCW by rules to provide, for arrangements for mediation to be undertaken with any registered person in respect of whom a matter is referred for investigation under section 125.
- (2) The regulations may make provision about, or authorise SCW by rules to make provision about—
 - (a) the circumstances in which mediation may be undertaken, and
 - (b) the arrangements for undertaking mediation.

Commencement Information

I14 S. 130 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

Review

131 Review of decisions by SCW

- (1) SCW must review a decision to which subsection (2) applies if—
 - (a) it thinks that the decision may be materially flawed, or
 - (b) it thinks that a different decision may have been made on the basis of information that was not available when the decision was made.
- (2) This subsection applies to the following decisions—
 - (a) a decision not to refer a matter to a fitness to practise panel under section 121 or 126(2),
 - (b) a decision not to refer a matter for investigation under section 125,
 - (c) a decision to dispose of a case after investigation under section 126(3), and
 - (d) a decision to refer a case for mediation under regulations under section 130.
- (3) SCW may not review a decision after the end of the period of 2 years beginning with the date on which the decision was made unless SCW thinks that it is in the public interest to do so.
- (4) Where SCW decides to review a decision, it must give notice to the interested parties of—
 - (a) the decision to carry out a review, and
 - (b) the reasons for carrying out a review.
- (5) In this section “interested parties” means—
 - (a) the registered person in respect of whom the decision under review was made,

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- (b) the person (if any) who made an allegation in respect of which the decision was made, and
 - (c) any other person who SCW thinks has an interest in the decision.
- (6) On a review under this section, SCW may—
- (a) substitute for the decision under review another decision of a kind that could have been made by the original decision maker,
 - (b) refer the matter for investigation under section 125, or
 - (c) determine that the decision stands.
- (7) SCW must give notice of the outcome of the review to the interested parties.
- (8) SCW must by rules make provision about the arrangements for carrying out a review under this section.
- (9) Rules made under subsection (8) may, in particular, make provision about—
- (a) the procedure to be followed in carrying out a review (including provision for the interested parties to make representations to SCW);
 - (b) the content and timing of notices to be given under this section.

Commencement Information

I15 S. 131 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

132 Cancellation of referral to fitness to practise panel

- (1) This section applies where a matter has been referred to a fitness to practise panel under section 121 or 126(2) or to an interim orders panel under section 118(2)(b), 119(2) or 125(2) and—
- (a) SCW no longer thinks that there is a realistic prospect that the panel will find that the registered person's fitness to practise is impaired, or
 - (b) SCW otherwise thinks that it is no longer appropriate for the registered person to be subject to fitness to practise proceedings under this Part.
- (2) SCW may—
- (a) determine that the fitness to practise panel or interim orders panel may not commence or continue proceedings in respect of the matter, or
 - (b) determine that the fitness to practise proceedings may only commence or continue in respect of such particulars of the matter as SCW may specify.
- (3) Where SCW makes a determination under subsection (2) it may refer the matter, or specified particulars of the matter, for investigation under section 125.
- (4) SCW must give notice of a determination under subsection (2) to—
- (a) the registered person to whom the matter relates,
 - (b) where an allegation has been made, the person who made the allegation, and
 - (c) any person to whom notice of the referral was given under section 123(2)(c), (d) or (e) or 127(3).
- (5) The notice must include the reasons for the determination.

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- (6) SCW must by rules make provision about the procedure for exercising its functions under this section; in particular, provision about—
- (a) the procedure to be followed in making a determination under subsection (2), and
 - (b) the content and timing of a notice under subsection (4).

Commencement Information

I16 S. 132 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

133 Referral by SCW for review proceedings

- (1) This section applies where, in relation to a registered person, any of the following have effect—
- (a) undertakings agreed between the person and SCW under section 126(3)(d);
 - (b) undertakings agreed between the person and a fitness to practise panel under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7);
 - (c) a conditional registration order made (or confirmed or varied) under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c);
 - (d) a suspension order made (or confirmed or varied) under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7).
- (2) If SCW thinks at any time that it is desirable that a fitness to practise panel should review the registered person's fitness to practise, SCW may refer the case to the panel to carry out a review (see Chapter 5).
- (3) But SCW must refer a case to a fitness to practise panel to carry out a review of a registered person's fitness to practise if SCW has reason to believe that—
- (a) where the person has agreed an undertaking of the kind mentioned in subsection (1)(a) or (b), that the person has breached the undertaking, or
 - (b) where the person is subject to a conditional registration order of the kind mentioned in subsection (1)(c), that the person has breached any condition of the order.

Commencement Information

I17 S. 133 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

CHAPTER 3

DISPOSAL OF FITNESS TO PRACTISE CASES

134 Scope and interpretation of Chapter 3

- (1) This Chapter applies in respect of a matter which has been referred to a fitness to practise panel.
- (2) But it does not apply in respect of review proceedings under section 151 (except to the extent that rules may be made under section 136(4) or 137(6) about undertakings

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agreed, confirmed or varied, or warnings given, on a review carried out under section 151).

- (3) Nor does it apply in respect of proceedings before a fitness to practise panel, or that part of proceedings before a fitness to practise panel, in which that panel is considering—
 - (a) whether to make an interim order under section 144, or
 - (b) the review of an interim order under section 146.
- (4) In this Chapter a reference to a registered person is a reference to the registered person in respect of whom the referral to the fitness to practise panel has been made.

Commencement Information

I18 S. 134 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

135 Removal from register on consensual basis

- (1) Subsection (2) applies where—
 - (a) a registered person has applied under section 92 for the entry relating to that person to be removed from the register by agreement, and
 - (b) that application has been referred to a fitness to practise panel by virtue of rules made under section 92(3).
- (2) The fitness to practise panel may make an order for the entry relating to the registered person to be removed from the register by agreement only if the person has agreed to a statement of facts relating to the matter in respect of which the referral mentioned in subsection (1) was made.
- (3) If an order for removal by agreement is made, SCW—
 - (a) may publish the statement of agreed facts in such manner as it thinks appropriate, and
 - (b) may disclose the statement to any person if SCW thinks it is in the public interest to do so.

Commencement Information

I19 S. 135 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

136 Other consensual disposal by fitness to practise panel: undertakings

- (1) A fitness to practise panel may agree undertakings with the registered person if the person admits that his or her fitness to practise is impaired.
- (2) SCW must disclose details of the undertakings to any person—
 - (a) by whom, to the knowledge of SCW, the registered person is employed as a social care worker;
 - (b) who, to the knowledge of SCW, has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker;
 - (c) from whom, to the knowledge of SCW, the registered person is seeking such employment or such an arrangement;

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- (d) as may be prescribed.
- (3) But SCW may not disclose to any person details of any undertaking which relates solely to the registered person's physical or mental health.
- (4) SCW may by rules make provision about undertakings agreed with a fitness to practise panel under this section; and the rules may, in particular, make provision about the matters specified in section 129(2) (procedure to be followed for agreement of undertakings etc.).
- (5) Rules under subsection (4) may include provision in respect of undertakings agreed, confirmed or varied on a review under section 138(4), 152(5) or (6), 153(4), 154(4) or 155(7).

Commencement Information

I20 S. 136 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

137 Disposals by fitness to practise panel: finding of no impairment

- (1) This section applies where a fitness to practise panel has determined that a registered person's fitness to practise is not impaired.
- (2) The panel may decide to take no further action in respect of that person.
- (3) Or, the panel may do either or both of the following things—
 - (a) dispose of the matter in the way specified in subsection (4);
 - (b) dispose of the matter in the way specified in subsection (5).
- (4) The panel may give advice on any matter related to the allegation under section 118(1) (a) or the information which gave rise to the proceedings under section 118(1)(b) (as the case may be)—
 - (a) to the registered person, and
 - (b) to any other person involved in the proceedings.
- (5) The panel may give a warning to the registered person in respect of future conduct or performance.
- (6) SCW may by rules make provision about the procedure for giving a warning under this section.
- (7) Rules under subsection (6) may, in particular, make provision—
 - (a) requiring notice of a proposed warning to be given to the registered person, and
 - (b) allowing the registered person to make representations in respect of the proposed warning.
- (8) Rules under subsection (6) may also include provision in respect of a warning given under section 138(6) or on a review under section 152(3)(b)(ii), 153(3)(b)(ii), 154(3)(b)(ii) or 155(6)(b)(ii).

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

Commencement Information

I21 S. 137 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

138 Disposals by fitness to practise panel: finding of impairment

- (1) This section applies where a fitness to practise panel has determined that a registered person's fitness to practise is impaired.
- (2) The panel must dispose of the matter in one of the ways mentioned in subsections (3) to (9).
- (3) The panel may make an order under section 135(2) for removal of the registered person's entry from the register by agreement.
- (4) The panel may agree undertakings with the registered person; in which case, section 136(2) and (3) apply in respect of such undertakings.
- (5) The panel may decide to take no further action in respect of the registered person.
- (6) The panel may give a warning to the registered person in respect of future conduct or performance.
- (7) The panel may make a conditional registration order, which is an order imposing conditions on the person's registration.
- (8) The panel may make a suspension order, which is an order suspending the registered person's registration.
- (9) The panel may make a removal order, which is an order for the removal of the entry relating to the registered person in the register.
- (10) But the panel may not make a removal order if the only ground on which it has determined that the registered person's fitness to practise is impaired is adverse physical or mental health.

Commencement Information

I22 S. 138 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

139 Disposals: further provision about conditional registration and suspension orders

- (1) A conditional registration order must specify—
 - (a) the conditions with which the person to whom the order relates must comply, and
 - (b) the period for which the order is to have effect, which must not exceed 3 years; but see section 153 regarding extensions of that period on review.
- (2) A conditional registration order may specify—
 - (a) that the order must be reviewed in accordance with arrangements specified in the order;

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- (b) different conditions that have effect for different periods; but this is subject to the limit mentioned in subsection (1)(b).
- (3) A suspension order must specify the period for which the order is to have effect, which must not exceed one year; but see section 154 regarding extensions of that period on review.
- (4) A suspension order may specify that the order must be reviewed in accordance with arrangements specified in the order.

Commencement Information

I23 S. 139 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

140 Immediate orders for conditional registration or suspension

- (1) This section applies where a fitness to practise panel has made a conditional registration order, a suspension order or a removal order in respect of a registered person under section 138(7), (8) or (9) (“the decision”).
- (2) The fitness to practise panel may—
 - (a) in the case of a conditional registration order, make an order that the registered person's registration in the register should be subject to the conditions with immediate effect, or
 - (b) in the case of a suspension order or a removal order, make an order that the registered person's registration in the register should be suspended with immediate effect.
- (3) The panel may make an order under subsection (2) (an “immediate order”) only if it is satisfied that the order—
 - (a) is necessary for the protection of the public,
 - (b) is otherwise in the public interest, or
 - (c) is in the interests of the registered person.
- (4) SCW must give notice to the registered person of the making of an immediate order.
- (5) An immediate order has effect from the date on which the registered person was notified of it until—
 - (a) the date on which the decision takes effect in accordance with section 141(5), or
 - (b) an appeal against the decision is upheld.

Commencement Information

I24 S. 140 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

141 Fitness to practise decisions: notification and taking effect

- (1) Where a fitness to practise panel disposes of a case in any of the ways specified in sections 135 to 138, SCW must give notice to the registered person of the decision as to the disposal of the case.

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- (2) In any case where the disposal follows a finding as to impairment of fitness to practise, the notice to the registered person must include—
 - (a) a statement of facts found by the panel, and
 - (b) the panel's finding as to impairment of fitness to practise.
- (3) A decision to dispose of a case in any of the ways specified in section 135, 136 or 137 takes effect immediately.
- (4) Where a fitness to practise panel disposes of a case in any of the ways specified in section 138(5) to (9), SCW must also give notice to the registered person of the right of appeal against the decision under section 158.
- (5) A decision to dispose of a case in any of the ways specified in section 138(5) to (9) does not take effect until—
 - (a) the end of the period of 28 days beginning with the day on which the registered person was notified of the decision, or
 - (b) if an appeal is made within that period, the appeal is withdrawn, discontinued or dismissed.

Commencement Information

I25 S. 141 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

142 Regulations about disposals by fitness to practise panels

- (1) The Welsh Ministers may by regulations amend sections 135 to 138 to revise the ways in which a fitness to practise panel may dispose of a fitness to practise matter.
- (2) The regulations may, in particular—
 - (a) add a new disposal power to the powers mentioned in those sections, and make supplementary provision in respect of such a power;
 - (b) amend or repeal a disposal power mentioned in those sections;
 - (c) amend or repeal provisions of those sections which make supplementary provision in respect of a disposal power mentioned in those sections.

Commencement Information

I26 S. 142 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

CHAPTER 4

INTERIM ORDERS AND REVIEW OF INTERIM ORDERS

143 Scope and interpretation of Chapter 4

- (1) This Chapter applies—
 - (a) where a matter has been referred to an interim orders panel, and

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- (b) where a matter has been referred to a fitness to practise panel, to the proceedings before the fitness to practise panel, or that part of those proceedings, in which the fitness to practise panel is considering—
- (i) whether to make an interim order under section 144, or
 - (ii) the review of an interim order under section 146.
- (2) In this Chapter—
- “interim order proceedings” (“*achos gorchymyn interim*”) means proceedings in respect of which this Chapter applies, and
 - “panel” (“*panel*”) means the interim orders panel or fitness to practise panel before which the proceedings are brought.
- (3) In this Chapter a reference to a registered person is a reference to the registered person in respect of whom the referral to the panel has been made.

Commencement Information

I27 S. 143 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

144 Interim orders

- (1) A panel may in interim order proceedings make an interim order in relation to a registered person.
- (2) An interim orders panel may make an interim order whether or not the matter has been referred to a fitness to practise panel.
- (3) Where a matter has been referred to a fitness to practise panel, any interim order must be made before the matter is disposed of by the fitness to practise panel in accordance with any of sections 135 to 138.
- (4) The two types of interim order are—
- (a) an interim suspension order, which is an order suspending the registered person's registration;
 - (b) an interim conditional registration order, which is an order imposing conditions on the registered person's registration.
- (5) A panel may make an interim order only if it is satisfied that the order—
- (a) is necessary for the protection of the public,
 - (b) is otherwise in the public interest, or
 - (c) is in the interests of the registered person.
- (6) An interim order—
- (a) takes effect immediately, and
 - (b) may not have effect for a period of more than 18 months (unless it is extended; see section 148 (extension of interim order by the tribunal)).
- (7) Where an interim order is made in respect of a registered person, SCW must give notice to the person of—
- (a) the decision,
 - (b) the reasons for the decision, and
 - (c) the right of appeal under section 145 against the decision.

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

Commencement Information

I28 S. 144 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

145 Appeals against interim orders

- (1) Where a panel has made an interim order under section 144 in respect of a registered person, that person may appeal against the order to the tribunal.
- (2) An appeal must be made before the end of the period of 28 days beginning with the day on which notice of the decision is given under section 144(7).
- (3) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (4) On an appeal, the tribunal may—
 - (a) revoke the interim order,
 - (b) in the case of an interim conditional registration order, revoke or vary any condition,
 - (c) replace an interim suspension order with an interim conditional registration order,
 - (d) replace an interim conditional registration order with an interim suspension order,
 - (e) vary the period for which the interim order is to have effect,
 - (f) remit the case to SCW for it to dispose of in accordance with the directions of the tribunal, or
 - (g) make no change to the interim order.

Commencement Information

I29 S. 145 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

146 Reviews of interim orders: timing

- (1) A panel must first review an interim order made under section 144 within six months beginning with the date on which the order was made.
- (2) Where an interim order made under section 144 has been varied or replaced by the tribunal on an appeal under section 145, the reference in subsection (1) to the date on which the order was made is to be read as a reference to the date of the tribunal's decision.
- (3) Subsection (4) sets out the timing of the first review of an interim order following its extension or further extension by the tribunal (see section 148), and “the tribunal's decision” means the decision to extend or further extend the order (as the case may be).
- (4) A panel must review the interim order—
 - (a) if no review of the order had taken place before the tribunal's decision, within six months beginning with the date of the tribunal's decision, or

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- (b) if a review of the order had taken place before the tribunal's decision, within three months beginning with that date.
- (5) Subsection (6) sets out the timing of the first review of a replacement interim conditional registration order or interim suspension order made on a review (“the replacement order”) (see section 147(1)(c) and (d)).
- (6) A panel must review the replacement order—
- (a) if no review of the order which has been replaced had taken place before the review which led to the replacement order being made, within six months beginning with the date on which the replacement order was made, or
 - (b) if a review of the order which has been replaced had taken place before the review which led to the replacement order being made, within three months beginning with the date on which the replacement order was made.
- (7) After the first review of an interim order under subsection (1), (4) or (6), a panel must review the order (for so long as it is in effect)—
- (a) within six months beginning with the date of the decision of the most recent review, or
 - (b) if after the end of the period of three months beginning with that date, the registered person requests an earlier review, as soon as practicable.
- (8) A panel may review an interim order at any time if new evidence becomes available which is relevant to the case.
- (9) In subsections (7) and (8) a reference to an interim order includes a reference to—
- (a) an interim order as extended or further extended by the tribunal,
 - (b) an interim order as varied on a review (see section 147(1)(b)), and
 - (c) a replacement interim conditional registration order or interim suspension order made on a review.

Commencement Information

I30 S. 146 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

147 Reviews of interim order: possible decisions

- (1) On the completion by a panel of a review of an interim order, the panel may—
- (a) revoke the interim order;
 - (b) in the case of an interim conditional registration order, revoke or vary any condition;
 - (c) replace an interim suspension order with an interim conditional registration order;
 - (d) replace an interim conditional registration order with an interim suspension order;
 - (e) make no changes to the interim order.
- (2) A panel may make a decision specified in subsection (1)(b), (c), (d) or (e) only if the panel is satisfied that the decision—
- (a) is necessary for the protection of the public,
 - (b) is otherwise in the public interest, or

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- (c) is in the interests of the registered person.
- (3) A replacement order made under subsection (1)(c) or (d) has effect for the remainder of the period for which the order which it replaces had effect (unless it is extended under section 148).
- (4) In this section—
 - (a) a reference to an interim order includes a reference to—
 - (i) an interim order as extended or further extended by the tribunal;
 - (ii) an interim order as varied under subsection (1)(b);
 - (iii) a replacement interim conditional registration order or interim suspension order made under subsection (1)(c) or (d);
 - (b) a reference to an interim conditional registration order or an interim suspension order includes a reference to—
 - (i) an interim order of that kind as extended or further extended by the tribunal;
 - (ii) in the case of an interim conditional registration order, an interim order as varied under subsection (1)(b);
 - (iii) a replacement order of that kind made under subsection (1)(c) or (d).

Commencement Information

I31 S. 147 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

148 Extension of interim order by the tribunal

- (1) SCW may apply to the tribunal for an interim order to be extended or further extended.
- (2) On an application, the tribunal may—
 - (a) revoke the interim order,
 - (b) in the case of a conditional registration order, revoke or vary any condition,
 - (c) extend, or further extend, the order for up to 12 months, or
 - (d) make no change to the order or to the period for which the order is to have effect.
- (3) In this section, a reference to an interim order includes a reference to—
 - (a) an interim order as extended or further extended under this section,
 - (b) an interim order varied on a review (see section 147(1)(b)), and
 - (c) a replacement interim conditional registration order or interim suspension order made on a review (see section 147(1)(c) or (d)).

Commencement Information

I32 S. 148 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

149 Revocation of interim orders

- (1) This section applies where—

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- (a) a fitness to practise panel disposes of a matter in respect of a registered person in any of the ways set out in sections 135 to 138, and
 - (b) at that time, the registered person is subject to an interim order (see section 144).
- (2) The fitness to practise panel must, at the same time as it disposes of the matter, revoke the interim order.
- (3) The revocation of the interim order takes effect on the date on which the panel disposes of the matter as described in subsection (1)(a).
- (4) In this section a reference to an interim order includes a reference to the following (see sections 147 and 148)—
 - (a) an interim order as extended or further extended by the tribunal;
 - (b) an interim order as varied on a review;
 - (c) a replacement interim conditional registration order or interim suspension order made on a review.

Commencement Information

I33 S. 149 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

CHAPTER 5

REVIEW PROCEEDINGS

150 Review proceedings: interpretation and general

- (1) In this Chapter a reference to a registered person is to the registered person whose fitness to practise is the subject of a review under section 151.
- (2) A fitness to practise panel may make an order for removal of a registered person's entry from the register by agreement under section 152(2), 153(2), 154(2) or 155(5) only if the person has agreed to a statement of facts relating to the matter.
- (3) If such an order is made under any of those provisions, SCW—
 - (a) may publish the statement of agreed facts in such manner as it thinks appropriate, and
 - (b) may disclose the statement to any person if SCW thinks it is in the public interest to do so.
- (4) Where a fitness to practise panel agrees or confirms undertakings, or agrees any variation of undertakings, under section 152(5) or (6), 153(4), 154(4) or 155(7), SCW must disclose details of the undertakings to any person—
 - (a) by whom, to the knowledge of SCW, the registered person is employed as a social care worker,
 - (b) who, to the knowledge of SCW, has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker,
 - (c) from whom, to the knowledge of SCW, the registered person is seeking such employment or such an arrangement, and

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(d) as may be prescribed.

(5) But SCW may not disclose to any person details of any undertaking which relates solely to the registered person's physical or mental health.

Commencement Information

I34 S. 150 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

151 Review proceedings

- (1) Subsection (2) applies where undertakings agreed between a fitness to practise panel and a registered person under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7) have effect.
- (2) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in those undertakings.
- (3) Subsection (4) applies where a conditional registration order made (or confirmed or varied) under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c) has effect in relation to a registered person.
- (4) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in the conditional registration order.
- (5) Subsection (6) applies where a suspension order made (or confirmed or varied) under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7) has effect in relation to a registered person.
- (6) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in the suspension order.
- (7) A fitness to practise panel must also carry out a review of a registered person's fitness to practise in a case referred to it by SCW under section 133.

Commencement Information

I35 S. 151 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

152 Review of undertakings: disposals by fitness to practise panel

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(2) or (7) of the fitness to practise of a registered person who has agreed undertakings.
- (2) If the registered person has applied under section 92 for removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—

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- (a) must revoke the undertakings, and
 - (b) may do either or both of the following—
 - (i) give advice to the person on any matter related to the case;
 - (ii) give the person a warning in respect of future conduct or performance.
- (4) If the registered person admits that his or her fitness to practise is impaired, or if the panel determines that the person's fitness to practise is impaired, the panel may make a disposal specified in subsection (5) or (6).
- (5) The panel may agree with the registered person that the undertakings remain in effect with no variations.
- (6) The panel may agree with the registered person that either or both of the following variations may be made to any undertaking—
- (a) a variation of its terms;
 - (b) an extension or reduction of the period for which it is to have effect.
- (7) Under subsection (6)(b) an extension of the period for which any undertaking is to have effect may not be for more than 3 years.
- (8) If the panel determines that the registered person's fitness to practise is impaired, the panel may revoke the undertakings and make a decision to—
- (a) take no further action in respect of the person,
 - (b) give a warning to the person in respect of future conduct or performance,
 - (c) make a conditional registration order,
 - (d) make a suspension order, or
 - (e) subject to subsection (9), make a removal order.
- (9) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.

Commencement Information

I36 S. 152 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

153 Review of conditional registration orders: disposals by fitness to practise panel

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(4) or (7) of the fitness to practise of a registered person who is subject to a conditional registration order.
- (2) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
 - (a) must revoke the conditional registration order, and
 - (b) may do either or both of the following—
 - (i) give advice to the person on any matter related to the case;
 - (ii) give the person a warning in respect of future conduct or performance.

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

- (4) The panel may agree undertakings with the registered person—
 - (a) if the person admits that his or her fitness to practise is impaired, or
 - (b) if the panel determines that the person's fitness to practise is impaired.
- (5) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsections (6), (7) or (9).
- (6) The panel may confirm the conditional registration order with no variations.
- (7) The panel may do any or all of the following in respect of the conditional registration order—
 - (a) revoke any condition;
 - (b) vary any condition;
 - (c) extend or reduce the period for which the order is to have effect.
- (8) Under subsection (7)(c) an extension of the period for which the order is to have effect may not be for more than 3 years.
- (9) The panel may revoke the conditional registration order and make a decision to—
 - (a) take no further action in respect of the registered person,
 - (b) give a warning to the person in respect of future conduct or performance,
 - (c) make a suspension order, or
 - (d) subject to subsection (10), make a removal order.
- (10) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.

Commencement Information

I37 S. 153 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

154 Review of suspension orders: disposals by fitness to practise panel

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(6) or (7) of the fitness to practise of a registered person who is subject to a suspension order.
- (2) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
 - (a) must revoke the suspension order, and
 - (b) may do either or both of the following—
 - (i) give advice to the person on any matter related to the case;
 - (ii) give the person a warning in respect of future conduct or performance.
- (4) The panel may agree undertakings with the registered person—
 - (a) if the person admits that his or her fitness to practise is impaired, or

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

- (b) if the panel determines that the person's fitness to practise is impaired.
- (5) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsections (6), (7), (8) or (10).
- (6) The panel may confirm the suspension order with no variations.
- (7) The panel may—
 - (a) extend the period for which the suspension order is to have effect for a period of no more than 12 months, or
 - (b) reduce the period for which the suspension order is to have effect.
- (8) The panel may revoke the suspension order and make a decision to—
 - (a) take no further action in respect of the registered person,
 - (b) give a warning to the person in respect of future conduct or performance,
 - (c) make a conditional registration order, or
 - (d) make a removal order.
- (9) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.
- (10) If the conditions in subsection (11) are met, the panel may make an indefinite suspension order, which is an order suspending the registered person's registration in the register for an indefinite period.
- (11) The conditions are—
 - (a) the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and on no other ground specified in section 117,
 - (b) at the date of the panel's decision, the person has been suspended for at least 2 years, and
 - (c) the suspension order to which the person is subject is due to expire within 2 months of the date of the panel's decision.

Commencement Information

I38 S. 154 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

155 Review of indefinite suspension orders

- (1) This section applies where a fitness to practise panel has made an indefinite suspension order.
- (2) A fitness to practise panel must review the indefinite suspension order on the application of the registered person.
- (3) The registered person may not make an application for review—
 - (a) before the expiry of the period of 2 years beginning with the date on which the order was made, or
 - (b) within the period of 2 years beginning with the date of a previous application for review.

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

- (4) The following subsections specify the possible disposals which may be made by a fitness to practise panel which has completed a review under subsection (2).
- (5) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (6) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
 - (a) must revoke the indefinite suspension order, and
 - (b) may do either or both of the following—
 - (i) give advice to the person on any matter related to the case;
 - (ii) give the person a warning in respect of future conduct or performance.
- (7) The panel may agree undertakings with the registered person—
 - (a) if the person admits that his or her fitness to practise is impaired, or
 - (b) if the panel determines that the person's fitness to practise is impaired.
- (8) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsection (9) or (10).
- (9) The panel may confirm the indefinite suspension order.
- (10) The panel may revoke the indefinite suspension order and make a decision to—
 - (a) take no further action in respect of the registered person,
 - (b) give a warning to the person in respect of future conduct or performance, or
 - (c) make a conditional registration order.

Commencement Information

I39 S. 155 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

156 Reviews: further provision about conditional registration and suspension orders

- (1) Subsections (2) and (3) apply to a conditional registration order made under section 152(8)(c), 154(8)(c) or 155(10)(c).
- (2) The order must specify—
 - (a) the conditions with which the person to whom the order relates must comply, and
 - (b) the period for which the order is to have effect, which must not exceed 3 years; but see section 153 regarding extensions of that period on review.
- (3) The order may specify—
 - (a) that it must be reviewed in accordance with arrangements specified in the order;
 - (b) different conditions that have effect for different periods; but this is subject to the limit mentioned in subsection (2)(b).
- (4) Subsections (5) and (6) apply to a suspension order made under section 152(8)(d) or 153(9)(c).

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- (5) The order must specify the period for which it is to have effect, which must not exceed 3 years; but see section 154 regarding extensions of that period on review.
- (6) The order may specify that it must be reviewed in accordance with arrangements specified in the order.

Commencement Information

I40 S. 156 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

157 Decisions in review cases: notification and taking effect

- (1) Where a fitness to practise panel disposes of a review case in any of the ways specified in sections 152 to 155, SCW must give notice to the registered person of the decision as to the disposal of the case.
- (2) In any case where the disposal follows a finding as to impairment of fitness to practise, the notice given to the registered person must include—
 - (a) a statement of facts found by the panel, and
 - (b) the panel's reasons for its finding.
- (3) A decision to dispose of a review case in any of the ways specified in sections 152 to 155, except those disposals specified in subsection (4), takes effect immediately.
- (4) Subsection (5) applies where a fitness to practise panel disposes of a review case in any of the ways specified in—
 - (a) section 152(8),
 - (b) section 153(6), (7) or (9),
 - (c) section 154(6), (7), (8) or (10), or
 - (d) section 155(9) or (10).
- (5) SCW must also give notice to the registered person of the right of appeal under section 158 against the decision.
- (6) A decision to dispose of a review case in any of the ways specified in subsection (4) does not take effect until—
 - (a) the end of the period of 28 days beginning with the day on which the registered person was notified of the decision, or
 - (b) if an appeal is made within that period, the appeal is withdrawn, discontinued or dismissed.
- (7) Subsection (8) applies where—
 - (a) a registered person is subject to a conditional registration order under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c), and
 - (b) a fitness to practise panel disposes of a review case in any of the ways specified in section 153(6), (7) or (9)(c) or (d) (“the decision”).
- (8) The registered person's conditional registration under the order as mentioned in subsection (7)(a) continues to have effect until—
 - (a) the decision takes effect in accordance with subsection (6), or
 - (b) an appeal against the decision is upheld,

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despite the fact that, were it not for this subsection, the conditional registration would cease to have effect before that date.

(9) Where a registered person is subject to a conditional registration order as mentioned in subsection (7)(a) and a fitness to practise panel disposes of a review case by extending the period of the conditional registration order under section 153(7)(c) that extended period of conditional registration is to be treated as having started on the date on which the previous period of conditional registration would, were it not for subsection (8), have ceased to have had effect.

(10) Subsection (11) applies where—

- (a) a registered person is subject to a suspension order under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7), or an indefinite suspension order under section 154(10) or 155(9), and
- (b) a fitness to practise panel disposes of a review case in any of the ways specified in section 154(6), (7), (8)(c) or (d) or (10) or 155(10)(c) (“the decision”).

(11) The registered person's suspension under the order as mentioned in subsection (10)(a) continues to have effect until—

- (a) the decision takes effect in accordance with subsection (6), or
- (b) an appeal against the decision is upheld,

despite the fact that, were it not for this subsection, the suspension would cease to have effect before that date.

(12) Where a registered person is subject to a suspension order under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7) and a fitness to practise panel disposes of a review case by extending the period of the suspension order under section 154(7)(a) that extended period of suspension is to be treated as having started on the date on which the previous period of suspension would, were it not for subsection (11), have ceased to have had effect.

Commencement Information

I41 S. 157 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

CHAPTER 6

APPEALS AND REFERRALS TO THE TRIBUNAL

158 Appeals against decisions of a fitness to practise panel

(1) This section applies where a fitness to practise panel—

- (a) having determined that a registered person's fitness to practise is impaired (“a finding of impairment”), makes a decision to take no further action under section 138(5);
- (b) following a finding of impairment, gives a warning under section 138(6);
- (c) following a finding of impairment, makes a conditional registration order under section 138(7);
- (d) following a finding of impairment, makes a suspension order under section 138(8);

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- (e) following a finding of impairment, makes a removal order under section 138(9);
 - (f) following a finding of impairment, makes a decision in a review case under section 152(8) (disposals following review of undertakings);
 - (g) following a finding of impairment, makes a decision in a review case under section 153(6), (7) or (9) (disposals following review of conditional registration order);
 - (h) following a finding of impairment, makes a decision in a review case under section 154(6), (7), (8) or (10) (disposals following review of suspension order);
 - (i) makes a decision in a review case under section 155(9) or (10) (disposals following review of indefinite suspension order).
- (2) The person in respect of whom a decision of a kind listed in subsection (1) was made may appeal against the decision to the tribunal.
- (3) An appeal must be brought within the period of 28 days beginning with the day on which notice of the decision is given to the person concerned.
- (4) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (3) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (5) On an appeal under this section, the tribunal may—
- (a) confirm the decision,
 - (b) substitute for the decision appealed against another decision that the fitness to practise panel could have made, or
 - (c) remit the case to SCW to dispose of in accordance with the directions of the tribunal.

Commencement Information

I42 S. 158 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

CHAPTER 7

GENERAL AND SUPPLEMENTARY

159 Disclosure of information about fitness to practise

SCW may publish or disclose to any person information relating to a registered person's fitness to practise if it thinks it to be in the public interest to do so.

Commencement Information

I43 S. 159 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

160 Power to require information

- (1) For the purpose of carrying out functions under this Part, SCW may require—
 - (a) a registered person, or
 - (b) any other person (other than a Minister of the Crown),
 who SCW thinks is able to supply information or produce any document which appears relevant to the exercise of any such function, to supply that information or produce that document.
- (2) SCW may, in particular, require the registered person whose fitness to practise is being investigated, to provide details of any person—
 - (a) by whom the registered person is employed as a social care worker;
 - (b) who has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker.
- (3) Nothing in this section requires or permits any disclosure of information which is prohibited by any enactment or other rule of law.
- (4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, SCW may require that the information be put in a form which is not capable of identifying that individual.
- (5) If a person fails to supply any information or produce any document within 14 days, or such longer period as SCW may specify, of the person being required to do so under this section, SCW may apply to the tribunal for an order requiring the information to be supplied or the document to be produced.

Modifications etc. (not altering text)

C1 S. 160(1) modified (temp.) (25.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(1), [Sch. 5 para. 2\(5\)](#) (with [ss. 89, 90](#)) (subject to expiry in accordance with [s. 89\(1\)\(2\)\(d\)](#) of the modifying Act)

Commencement Information

I44 S. 160(1)-(4) in force at 3.4.2017 by [S.I. 2017/309](#), [art. 2\(e\)](#) (with [arts. 3, 4, Sch.](#))

161 Publication of fitness to practise decisions

- (1) SCW must publish a decision of a fitness to practise panel to make a consensual disposal of a matter under section 135 or 136.
- (2) SCW must publish a decision of a fitness to practise panel to dispose of a case under section 137 (disposal following a finding of no impairment of fitness to practise).
- (3) SCW must publish a decision of a fitness to practise panel to dispose of a case under section 138 (disposal following a finding of impaired fitness to practise).
- (4) SCW must publish a decision of a fitness to practise panel to dispose of a review cases in any of the ways mentioned in sections 152 to 155.
- (5) SCW must publish a decision of a fitness to practise panel to make an immediate order under section 140.
- (6) SCW must publish the following decisions of an interim orders panel or a fitness to practise panel—

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- (a) a decision to make an interim order under section 144;
 - (b) a decision to confirm or vary an interim order on a review under section 147.
- (7) SCW must publish any decision it makes—
- (a) to issue a warning under section 126(3)(c) (powers of SCW where case is not referred to a fitness to practise panel),
 - (b) to agree undertakings under section 126(3)(d), or
 - (c) to grant an application for removal from the register by agreement under section 126(3)(e).
- (8) Subsections (1) to (7) are subject to subsections (9) and (10).
- (9) SCW is not required to publish any decision of a fitness to practise panel to take no further action in respect of a registered person under section 137(2), 138(5), 152(8)(a), 153(9)(a), 154(8)(a) or 155(10)(a); but it may do so.
- (10) SCW must not publish any information about a person's physical or mental health.

Commencement Information

I45 S. 161 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

162 Guidance about fitness to practise

- (1) SCW may publish guidance about factors which in its view may make it appropriate, or inappropriate, for a fitness to practise panel or an interim orders panel to make or confirm an interim order under Chapter 4.
- (2) A fitness to practise panel or an interim orders panel must have regard to guidance published under subsection (1) in exercising any function under Chapter 4.
- (3) SCW may publish guidance about factors which in its view may make it appropriate, or inappropriate, for a fitness to practise panel to do any of the following—
 - (a) reach a consensual disposal of a matter under section 135 or 136;
 - (b) give advice or a warning under section 137;
 - (c) dispose of any matter in any of the ways mentioned in section 138(3) to (9);
 - (d) make an immediate order under section 140;
 - (e) dispose of a matter on review in any of the ways mentioned in sections 152 to 155.
- (4) SCW may publish guidance about—
 - (a) particular undertakings, or kinds of undertakings, which may be agreed by a fitness to practise panel, and when it may be appropriate or inappropriate to agree such undertakings;
 - (b) particular conditions, or kinds of conditions, which may be included in a conditional registration order, and when it may be appropriate or inappropriate to include such conditions;
 - (c) the period of time for which any of the following should have effect—
 - (i) undertakings;
 - (ii) conditions included in a conditional registration order;
 - (iii) a suspension order.

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

- (5) SCW may publish guidance about factors which it thinks should be taken into account in determining whether or not a registered person's fitness to practise is impaired on the grounds of adverse physical or mental health.
- (6) A fitness to practise panel must have regard to guidance published under subsections (3) to (5) in exercising any function under this Part.

Commencement Information

I46 S. 162 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

163 Suspension: supplementary

- (1) This section applies in respect of a person who is subject to—
 - (a) a suspension order made under section 138(8) (disposals by fitness to practise panel: finding of impairment);
 - (b) a suspension order made, confirmed or varied on review under section 152(8) (d), 153(9)(c) or 154(6) or (7);
 - (c) an indefinite suspension order made or confirmed on review under section 154(10) or 155(9);
 - (d) an interim suspension order made, confirmed or varied under section 144 or 147.
- (2) The person is to be treated for all purposes other than those mentioned in subsection (3) as not being registered in the register despite the fact that the person's name continues to appear in it.
- (3) The person is to be treated as registered for the purpose of—
 - (a) any proceedings under this Part (including preliminary consideration or investigation under Chapter 2) which relate to the person's fitness to practise;
 - (b) an application made under rules under section 92 for removal from a part of the register by agreement;
 - (c) proceedings under section 94 (entries based on false or misleading information) which relate to an entry in a part of the register.

Commencement Information

I47 S. 163 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

164 Meaning of “registered person” in Part 6

In this Part “registered person” means a person who is registered in [^{F5}the social worker part or an added part]^{F6} ... of the register; and it includes a person—

- (a) whose registration would have lapsed under section 87(1) but for the fact that subsection (2) of that section applies to the person;
- (b) in respect of whom a suspension order has effect under section 138(8), 152(8) (d), 153(9)(c), 154(6), (7) or (10) or 155(9);
- (c) in respect of whom an interim suspension order has effect under section 144 or 147.

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6. (See end of Document for details)

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Textual Amendments

- F5** Words in s. 164 substituted (31.12.2020) by [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/761\)](#), regs. 1(2), **13(a)** (with regs. 15A-19) (as amended by [S.I. 2020/1626](#), regs. 1(2), 6-13); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 164 omitted (31.12.2020) by virtue of [The Regulation and Inspection of Social Care \(Qualifications\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/761\)](#), regs. 1(2), **13(b)** (with regs. 15A-19) (as amended by [S.I. 2020/1626](#), regs. 1(2), 6-13); 2020 c. 1, Sch. 5 para. 1(1)
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Commencement Information

- I48** S. 164 in force at 3.4.2017 by [S.I. 2017/309](#), **art. 2(e)** (with arts. 3, 4, Sch.)

Changes to legislation:

There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, PART 6.