



# Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

## PART 6

SOCIAL CARE WORKERS: FITNESS TO PRACTISE

### 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

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

#### 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—

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- (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.

#### **Commencement Information**

**I2** 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—
  - (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.

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(10) SCW must not publish any information about a person's physical or mental health.

#### Commencement Information

**I3** 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.
- (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

**I4** 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—

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- (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

**I5** 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 the social worker part, an added part or the visiting [<sup>F1</sup>European social worker part or visiting European social care manager part] 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.

#### Textual Amendments

**F1** Words in s. 164 substituted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, 142(2) (with reg. 155)

#### Commencement Information

**I6** S. 164 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

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**Changes to legislation:**

There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, CHAPTER 7.