

2016 No. (W.)

SOCIAL CARE, WALES

**The Social Care Wales (Content of
Register) Regulations 2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify information which must be included on the register under section 91(1)(c) and (d) of the Regulation and Inspection of Social Care (Wales) Act 2016 (“the Act”).

Under section 80(1) of the Act, Social Care Wales (“SCW”) must keep a register of social workers, certain social care workers and visiting social workers from relevant European States. Section 91(1)(a) and (b) of the Act require that register to show specified information relating to each person on the register, and paragraphs (c) and (d) provide that the register must also show such other qualifications, knowledge or experience relevant to the person’s registration, and such information relating to the person’s fitness to practise, as may be specified by the Welsh Ministers by regulations.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

2016 No. (W.)

SOCIAL CARE, WALES

**The Social Care Wales (Content of
Register) Regulations 2016**

Made ***

Laid before the National Assembly for Wales ***

Coming into force ***

The Welsh Ministers in exercise of the powers conferred upon them by sections 91(1)(c) and (d) and 187(1)(b) of the Regulation and Inspection of Social Care (Wales) Act 2016⁽¹⁾ make the following Regulations.

Title, commencement and application

1.—(1) The title of these Regulations is the Social Care Wales (Content of Register) Regulations 2016.

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

(3) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

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

“SCW” (“*GCC*”) means Social Care Wales⁽²⁾.

(2) References to sections in these Regulations are references to sections of the Act.

Content of the register

3.—(1) An entry in the register in respect of a person must show—

(1) 2016 anaw 2.

(2) The Care Council for Wales was renamed Social Care Wales by section 67(3) of the Act.

- (a) such of the qualifications, knowledge or experience specified in the Schedule to these Regulations as are possessed by the person (if any), and
 - (b) where a relevant decision has been made in respect of the person's fitness to practise, the information specified in regulations 4 to 9.
- (2) In this regulation, "relevant decision" means—
- (a) subject to paragraph (3), a determination by a fitness to practise panel that a registered person's fitness to practise is impaired under the following sections—
 - (i) section 138 (disposals by fitness to practise panel: finding of impairment);
 - (ii) section 152 (review of undertakings: disposals by fitness to practise panel);
 - (iii) section 153 (review of conditional registration orders: disposals by fitness to practise panel);
 - (iv) section 154 (review of suspension orders: disposals by fitness to practise panel);
 - (v) section 155 (review of indefinite suspension orders);
 - (b) a decision by a fitness to practise panel or an interim orders panel to make an interim order under section 144 (interim orders) or to confirm or vary an interim order under section 147 (review of interim orders: possible decisions),
 - (c) a decision by a fitness to practise panel to agree undertakings under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7) following an admission by a registered person that his or her fitness to practise is impaired,
 - (d) a decision by a fitness to practise panel to give advice or a warning to a registered person under section 137 (disposals by fitness to practise panel: finding of no impairment), 152(3), 153(3), 154(3) or 155(6) following a finding that his or her fitness to practise is not impaired,
 - (e) a decision by SCW to issue a warning to a registered person under section 126(3)(c),
 - (f) a decision by SCW to agree undertakings with a registered person under section 126(3)(d), and
 - (g) a decision by a fitness to practise panel to restore a person to the relevant part of the register under section 98(1)(a).
- (3) A determination by a fitness to practise panel that a registered person's fitness to practise is impaired is not a relevant decision if the disposal made is—

- (a) a removal order under section 138(9) (subject to subsection (10)), 152(8)(e), 153(9)(d) or 154(8)(d) (subject to subsection (9)), or
- (b) a voluntary removal order under section 135(2), 152(2), 153(2), 154(2) or 155(5).

Relevant information: impaired fitness to practise

4.—(1) This regulation applies where a fitness to practise panel has made a relevant decision specified in regulation 3(2)(a).

(2) The entry in the register in respect of the registered person (the “relevant entry”) must—

- (a) state that the person’s fitness to practise has been found to be impaired, and
- (b) specify the way in which the fitness to practise panel disposed of the matter under section 138 or any of sections 152 to 155.

(3) Where the fitness to practise panel has agreed undertakings with the registered person, the relevant entry must specify the undertakings that have been agreed, except for any undertakings relating to the person’s physical or mental health.

(4) Where the fitness to practise panel has made a conditional registration order, the relevant entry must specify the conditions imposed on the registered person’s registration, except for any conditions relating to his or her physical or mental health.

(5) Where the fitness to practise panel has made a conditional registration order which has ceased to have effect, the relevant entry must continue to indicate that the person was previously subject to such an order and the dates for which the order had effect.

(6) Where the fitness to practise panel has made a suspension order which has ceased to have effect, the relevant entry must continue to indicate that the person had been subject to such an order and the dates for which the order had effect.

Relevant information: interim orders

5.—(1) This regulation applies where a fitness to practise panel or an interim orders panel has made a relevant decision specified in regulation 3(2)(b).

(2) The entry in the register in respect of the registered person must—

- (a) state the type of interim order that has been made or confirmed, or (in the case of a variation of an interim order under section 147) the variation that has been made, and
- (b) where the order is an interim conditional registration order, specify the conditions imposed on the person’s registration, except

for any conditions relating to his or her physical or mental health.

Relevant information: undertakings following admission of impairment

6.—(1) This regulation applies where a fitness to practise panel has made a relevant decision specified in regulation 3(2)(c).

(2) The entry in the register in respect of the registered person must—

- (a) state that the person admits that his or her fitness to practise is impaired, and
- (b) specify the undertakings that have been agreed, except for any undertakings relating to the person's physical or mental health.

Relevant information: finding of no impairment by a fitness to practise panel

7.—(1) This regulation applies where a fitness to practise panel has made a relevant decision specified in regulation 3(2)(d).

(2) The entry in the register in respect of the registered person must state—

- (a) that there has been a finding that the person's fitness to practise is not impaired, and
- (b) that the fitness to practise panel has given advice or a warning (as the case may be) to the person.

Relevant information: restoration

8. Where an entry in respect of a person has been restored to the relevant part of the register under section 98(1)(a), the entry must also state that the person had been removed from the register following a finding of impairment of fitness to practise.

Relevant information: decisions by SCW

9.—(1) Where SCW has issued a warning to a registered person under section 126(3)(c), the entry in the register in respect of the person must state—

- (a) that the question of impairment of the person's fitness to practise has not been determined, and
- (b) that a warning has been issued by SCW.

(2) Where SCW has agreed undertakings with a registered person under section 126(3)(d), the entry in the register in respect of the person must—

- (a) state that the question of impairment of the person's fitness to practise has not been determined, and

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

Name

Title of Minister, one of the Welsh Ministers

Date

DRAFT

SCHEDULE Reg. 3(1)(a)

Content of the register – Relevant qualifications, knowledge or experience

1. Approval by any social services authority whose area is in Wales to act as an approved mental health professional pursuant to section 114(1) of the Mental Health Act 1983(1).

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(1) 1983 c. 20.