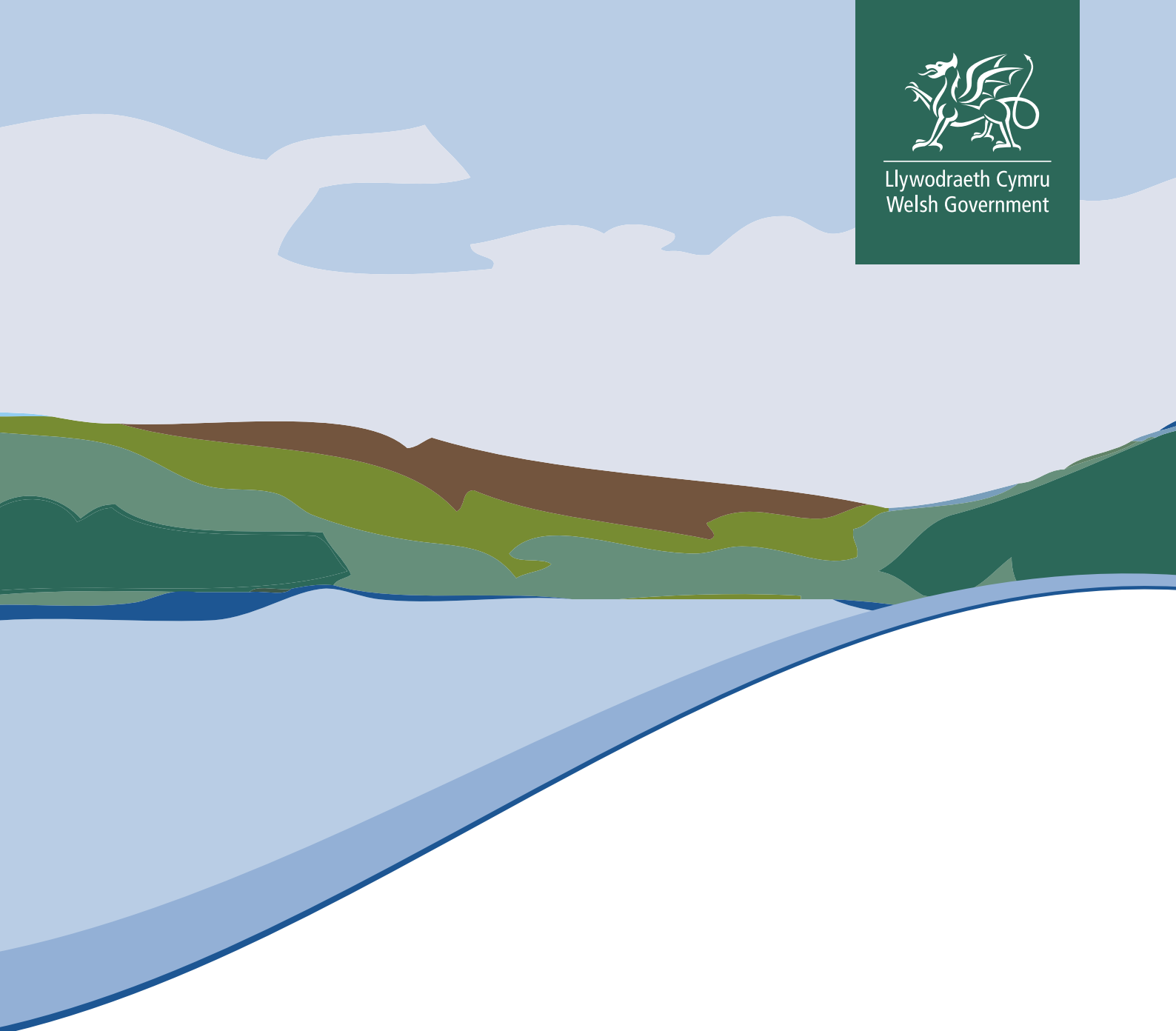




Llywodraeth Cymru
Welsh Government



Mental Health Act 1983

Approval of Approved Clinicians (Wales)

July 2018

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

Introduction

- i. In November 2008, the functions of approved clinicians were introduced into mental health legislation across Wales and England, signifying new roles and ways of working in mental healthcare.
- ii. An approved clinician is a mental health professional approved by the Welsh Ministers to act as such for the purpose of the Mental Health Act 1983 (“the 1983 Act”). Some decisions under the 1983 Act can only be undertaken by people who are approved clinicians.
- iii. In practice, the Welsh Ministers have delegated the function of approving person to be approved clinicians to local health boards by Directions made under the National Health Service (Wales) Act 2006.
- iv. Approval is undertaken on behalf of all local health boards in Wales by Betsi Cadwaladr University Local Health Board. The framework for the approval process operates on three levels:
 - i. an Approval Team – handling all procedural arrangements for approval
 - ii. the All Wales Approval Panel for Approved Clinicians (with a designated Chair) – makes recommendations for Approval
 - iii. Betsi Cadwaladr University Local Health Board – ratifies the recommendations of the All Wales Approval Panel
- v. This Guidance has been developed to assist individuals and organisations that have interests and responsibilities relating to the approval of approved clinicians to understand and fulfil those responsibilities.
- vi. The Approval Team in Betsi Cadwaladr University Local Health Board also set out detailed procedural arrangements and requirements for approval and re-approval.
- vii. This guidance should be read in conjunction with both the Mental Health Act 1983 (Approved Clinicians) (Wales) Directions 2018. and the full procedural arrangements that can be found on Betsi Cadwaladr University Local Health Board’s Website: www.wales.nhs.uk/sitesplus/861/home or [/www.wales.nhs.uk/sitesplus/861/page/65245](http://www.wales.nhs.uk/sitesplus/861/page/65245)

Who the guidance is for?

- viii. The individuals and organisations that will have an interest in this guidance are likely to include:
 - a. those undertaking the functions of an approved clinician
 - b. those wishing to seek approval as an approved clinician
 - c. organisations that plan, secure or provide mental health services
 - d. clinical Directors, professional leads and managers of mental health services
 - e. those involved in the planning, securing or providing of training in mental health legislation and practice.

Background to the Guidance

- ix. Betsi Cadwaladr University Local Health Board met with the Welsh Government in 2013 to discuss areas within the approval process and governance arrangements that the Approval Team and Local Health Board considered could be improved. Differences between the processes in Wales and England were adding to the challenge of maintaining service consistency for mental health practitioners and local health boards both within Wales and on a cross-border basis with England.
- x. A task and finish review group consisting of key stakeholders was convened to review areas of concern and subsequently reported their findings and made recommendations to the Welsh Government in 2015.
- xi. The Mental Health Act 1983 (Approved Clinician) (Wales) Directions 2018 have been amended and this guidance produced based on those recommendations.

Summary of Changes – Key Points

The summary of changes listed below to the approval of Approved Clinician process have been made to strengthen assurance of patient and public safety whilst also supporting an adequate and sustainable workforce to deliver safe and lawful mental health services in Wales. The changes are set out more fully through the course of the guidance and in detail in procedural arrangements made by Betsi Cadwaladr University Local Health Board:

- The requirement of an **annual declaration** of continued possession of relevant competencies to carry out functions as an approved clinician **is removed**.
- Approved Clinicians **will be contacted on an annual basis** to confirm their current work place, job title and that they continue or may be required to act in the role.
- Registered medical practitioners not on the Specialist Register of the General Medical Council (GMC) and eligible registered professionals from social work, occupational therapy, nursing and psychology professions will submit an **application via a portfolio**. To support a proportional process of application the approval panel may request a meeting with applicants to clarify or enhance evidence of competency provided via portfolio.
- All applicants seeking approval will confirm whether an **application** for approval made elsewhere has been **refused**.
- All applicants for approval and re-approval will provide evidence of an **appraisal** demonstrating a satisfactory outcome.
- All applicants for re-approval will be required to undertake Approved Clinician **refresher training** within two years of the expiry date of the current approval.
- Registered medical practitioners in the final year of higher specialist training toward inclusion on the Specialist Register of the General Medical Council will need to provide their **certificate of completion of training** as a condition of ongoing approval.

- Clearer and distinct **governance** responsibilities are set out in relation to:
 - a. the process and procedural arrangements for undertaking the approval of approved Clinician functions by Betsi Cadwaladr University Local Health Board
 - b. applicants seeking approval and Approved Clinician/Responsible Clinicians
 - c. employers, clinical and professional leads of practitioners seeking approval and those approved to undertake the functions of an Approved Clinician.
- Applicants seeking approval as registered medical practitioners employed on a “**Locum**” basis should be considered as approved in the same way as other applicants – depending on employment circumstances the Approval Board may set conditions on approval.

Acknowledgements

In preparing this Guidance, the Welsh Government wishes to acknowledge the work and support of the All Wales Task and Finish Group.

The Welsh Government also wishes to thank the current Approval Team of Betsi Cadwaladr University Local Health Board for supporting the implementation of these changes whilst maintaining the ongoing approval and re-approval of Approved Clinicians across Wales.

Chapter 1 – Policy and Legal Background

Legal Framework

- 1.1 The Mental Health Act 1983 as amended by the Mental Health Act 2007 established the function of approved clinicians and responsible clinicians. Some decisions under the 1983 Act can only be undertaken by people who are approved clinicians. A responsible clinician is an approved clinician with overall responsibility for an individual patient's case.
- 1.2 Mental health professionals are approved by the Welsh Ministers to act as an approved clinician in Wales. In practice, the function of the Welsh Ministers for approval is given under Directions to Local Health Boards. Approval is undertaken on behalf of all the Local Health Boards in Wales by Betsi Cadwaladr University Local Health Board.
- 1.3 The Mental Health Act 1983 Approved Clinician (Wales) Directions 2018 can be found at Annex A and set out:
 - how approved clinicians are to be approved and for how long
 - who is eligible to seek approval and act as an Approved Clinician
 - what requirements and competencies must be satisfied and demonstrated
 - the conditions required to maintain approval
 - the circumstances and process for the suspension and ending of approval
 - requirements for ongoing approval “re-approval”.

Eligibility to seek approval

- 1.4 To seek approval, a person must meet the:
 - a. professional requirements
 - b. competency requirements
 - c. training requirements and
 - d. satisfy the criminal record certification requirement of Direction 4(d).

1.5 **Professional requirements** – found at Schedule 1 – Direction 4 (a)

A person seeking approval must provide evidence that they are one or more of the following:

- a. a registered medical practitioner
- b. a psychologist listed in the British Psychology Society's register who holds a practice certificate issued by the society
- c. a practitioner psychologist registered with the Health and Care Professions Council
- d. a first level nurse in mental health or learning disabilities (registered with the Nursing and Midwifery Council)
- e. an occupational therapist (registered with the Health and Care Professions Council)
- f. a social worker (registered with Social Care Wales (formerly Care Council for Wales) or Health and Care Professionals Council).

Indicators as to potential eligibility

The post-registration career and professional development pathways of the different registered professionals eligible to seek approval as Approved Clinicians are varied. This means that it is not possible to offer definitive guidance as to whether professionals attaining a particular job grade or level of formal professional education alone are indications of their level of clinical competence or readiness to seek approval.

In addition to the governance and human resources management requirements recommended in this guidance it is also likely that in order to demonstrate the required competencies, that a person eligible to apply for approval will have worked for a significant post-registration period of time in mental health practice and that their experience is current or very recent.

For example a:

- **medical doctor** who is registered on the Specialist Register of the General Medical Council (GMC) for psychiatric specialities will be considered to be proficient in the competencies set out in Schedule 2 of the Directions
- **medical doctor** not on the Specialist Register but who has extant approval under section 12 (2) of the 1983 Act and has worked for a significant period of time post registration in mental health practice may be proficient in the competencies
- **psychologist** is likely to be employed at Level 8 in the NHS Career Framework¹
- **mental health or learning disability nurse, or occupational therapist** is possibly employed in a post that meets the criteria for Level 7 of the NHS Career Framework but more likely at level 8
- **social worker** will be working in a senior practitioner role and expected to have significant recent experience as an approved mental health professional.

1.6 Competency Requirements found at Schedule 2 – Direction 4 (b)

The competency requirements are set out in details for the following areas:

1. The Role of the Approved Clinician
2. Values-based Practice
3. Assessment
4. Care and Treatment Planning
5. Treatment
6. Leadership and Multi-disciplinary Team Working
7. Equality, Diversity and Rights
8. Mental Health Legislation and Policy
9. Communication

¹ www.healthcareers.nhs.uk/career-planning/resources/nhs-career-framework

1.7 Training Requirements

A person seeking approval must have completed an initial training course for approved clinicians within two years of the date of the application.

A person seeking re-approval must have completed a refresher training course within two years of the expiry date of the current approval period.

The Welsh Government has not prescribed the specification for such training but guidance on the content is given in Chapter 4.

1.8 Certificates

A person seeking approval and re-approval must provide evidence that they have a valid enhanced criminal record certificate that includes information relating to the suitability of working with children and vulnerable adults.

Chapter 2 – Process of Approval

Underpinning Principles

- 2.1 Approval of approved clinicians exists to protect individual patients and the public and to ensure that there is adequate workforce capacity in Wales to maintain lawful and effective mental health services.
- 2.2 To balance the need to assure patient and public safety with that of the need to sustain a sufficient and sustainable workforce of approved and responsible clinicians, the process of approval must be:
- Transparent
 - Proportionate
 - Straightforward
 - Underpinned and supported by robust governance and human resource management systems within the mental health service provider organisations where approved clinicians will work.

Application Process

- 2.4 Full details of the procedural arrangements and requirements for applications seeking approval and re-approval are set out by Betsi Cadwaladr University Local Health Board. The purpose of this guidance is not to duplicate that detail. However, to aide clarity and understanding, the professional and registration status of four groups of eligible applicants have been identified. These are:
- registered medical practitioners on the Specialist Register of the General Medical Council (GMC)
 - registered medical practitioners in their final year of the higher specialist training towards inclusion on the Specialist Register of the GMC
 - registered medical practitioners not on the Specialist Register of the GMC
 - registered professionals from a non-medical profession.
- 2.5 The tables at **Annex B** and **Annex C** respectively give the overview list of requirements for each of the above groups when applying for **Initial Approval** and **Re-Approval** and should be read in conjunction with the procedural arrangements set out by Betsi Cadwaladr University Health Board.
- 2.6 It is recognised that the employment of registered medical practitioners on a “locum” basis is an essential resource to enable the continuity of lawful and safe mental health service delivery and patient care and treatment. “Locum doctors” seeking approval and re-approval should be considered as approved in the same way as other applicants. The All Wales Panel for the Approval of Approved Clinicians may set conditions on the approval of Locum Doctors depending on employment circumstances.

Period of Approval

2.7 Approval to act as an Approved Clinician is given for a period of five years.

Process of Re-Approval

2.8 An application for re-approval must be made before the extant five year period of approval expires.

2.9 It is the responsibility of Approved Clinicians to ensure that they follow the procedures for re-approval within the timescales required to ensure continuity of approved status.

Conditions to Maintain Approval

2.10 Every five year period of approval is subject to conditions for the purpose of ongoing assurance. The conditions are that an approved clinician must:

- immediately stop acting in the role if they are suspended from any professional registration that is a requirement of approval and immediately tell the approving Board of the suspension
- immediately tell the approving Board if:
 - i. any conditions are attached by their professional registration body to their registration or listing
 - ii. they become subject to fitness to practise proceedings by their professional body
 - iii. they no longer meet the requirements for approval and re-approval
 - iv. they are convicted of or receive a caution for a criminal offence
- on request provide evidence to the approving Board that they continue to possess the relevant competencies
- immediately stop acting as an approved clinician if their approval is suspended or when the period of approval has ended and no application for re-approval has been made.

2.11 The approving Board may place other conditions as they consider reasonable and appropriate on a case-by-case basis.

2.12 During any period of approval, if conditions are attached to an Approved Clinician's registration or listing by their professional registration body, the approving Board **must** attach the same conditions to the approval (unless the approval has been suspended – see below).

Suspension of Approval

2.13 At any time during a period of approval there are circumstances in which the approval Board either **must** or **may** suspend the approval of an Approved Clinician. These circumstances are set out below.

- 2.14 If an approved clinician's professional registration body suspends their registration or listing, the approving Board **must** suspend that clinician's approval for as long as the registration or listing is suspended.
- 2.15 The approving Board **may** suspend the approval of an Approved Clinician if:
- the approved clinician has a condition attached to their registration or listing by their professional body
 - the approved clinician is convicted of or receives a caution for a criminal offence.
- 2.16 Before the approving Board suspends an Approved Clinician's approval it must:
- give the Approved Clinician its reasons for considering suspending the approval
 - give the Approved Clinician a reasonable time to respond to the proposed action
 - consider the Approved Clinician's response/representation to the proposed action.
- 2.17 When the approving Board suspends the approval of an Approved Clinician it **must** inform both the Approved Clinician and the responsible Professional Registration Body for the person's professional registration or listings of the reasons for the decision.
- 2.18 If an Approved Clinician's approval is suspended, they may not act as an Approved Clinician until the suspension of approval is ended.
- 2.19 When an episode of suspension of approval has ended, the approval will continue to run for the remainder of the approval period.

End of Approval

- 2.20 The approval of an Approved Clinician ends when the 5 year period of approval expires.
- 2.21 The approval Board **must** end the approval of an approved clinician before the expiry of the five year period if the approved clinician:
- does not comply with the conditions for ongoing approval (set out in points 2.10 – 2.12 above)
 - no longer has the relevant competencies
 - no longer meets the professional registration requirements or
 - makes a written request to end their approval.
- 2.22 Before ending an approved clinician's approval the approving Board **must**:
- give the approved clinician its reasons for considering ending their approval
 - give the approved clinician a reasonable time to respond/make representation to the proposed action
 - consider any response/representation given by the Approved Clinician.
- 2.23 When the approving Board ends an Approved Clinician's approval it must immediately let the Approved Clinician know in writing the end date of approval and the reasons for its decision.

Transitional Arrangements

- 2.24 A person approved to act as an Approved Clinician before the date the new directions come into force will still be considered to be approved under the new directions.
- 2.25 Where a person has made an application seeking approval before the day the new directions come into force and that application has not yet been decided on, their application will be processed in accordance with the 2008 Directions. If Approval is granted, they will be considered as approved under the new directions.

Chapter 3 – Professional Practice and Competencies

Extending the scope of practice

- 3.1 The functions of approved clinicians and responsible clinicians given under the Mental Health Act 2007 are not new “roles”, “posts” or stand alone jobs within mental health services.
- 3.2 By becoming an approved clinician (and for an individual patient, the responsible clinician) a mental health practitioner is effectively extending their core professional role and engaging in an advanced level of practice within the context of that role.
- 3.3 The core competencies of the registered mental health professionals that may seek approval as to act as an Approved Clinician are considered to provide the underpinning knowledge, skills, values and behaviours needed to act as a responsible clinician. The foundation of competence will be assured by extant professional registration.
- 3.4 It is expected that a registered professional seeking approval as an Approved Clinician will have benefited from significant and relevant clinical and multi-disciplinary post-registration mental health practice experience. It is also expected that they will have had access to and engaged in continuous post-registration professional training, development and education as well as effective clinical or professional supervision, development planning and performance appraisal.

Chapter 4 – Training for Approved Clinicians

4.1 As well as fulfilling the professional and competency requirements to become an approved clinician, registered professionals seeking approval must have undertaken (within the last two years) an initial training course for approved clinicians. Completing a refresher training course within two years prior to the expiry date of the current approval period is also a condition for re-approval.

4.2 The purpose of the initial training course is to consolidate understanding of the key functions of approved and responsible clinicians. It is expected that the initial training course adds to the suite of continuous professional development, supervision, training and appraisal referred to in Chapter 3.

4.3 It is not the intention of the Welsh Government to prescribe in detail a specification for such a training course. However, as a minimum, prospective applicants seeking approval who have completed the initial training course for the role would be expected to have a clear understanding of the:

- Mental Health Act 1983, the Mental Capacity Act 2005 and the Mental Health (Wales) Measure 2010, including associated subordinate legislation and case law
- Code of Practice for Wales (2016) to the 1983 Act, the Code of Practice and guidance to the 2005 Act and the Code of Practice and guidance for the 2010 Measure
- Mental Health Act 1983 Approved Clinician (Wales) Directions 2018
- functions and responsibilities of Approved Clinicians
- functions and responsibilities of responsible clinicians
- role and function of the Mental Health Review Tribunal for Wales under the 1983 Act
- role and function of the Hospital Managers under the 1983 Act
- understanding of the relevant equality legislation and equality issues
- need to proactively maintain their competence as an approved clinician.

Chapter 5 – Governance and Responsibilities

Betsi Cadwaladr University Local Health Board

- 5.1 Betsi Cadwaladr University Health Board is accountable for approving Approved Clinicians in Wales on behalf of the Welsh Ministers. It is responsible for:
- overseeing a system for approval that it is proportionate, effective and efficient
 - providing information to the Welsh Government as required on the fulfilment of this role.

The Approval Team of Betsi Cadwaladr University Local Health Board

- 5.2 The approval team is accountable for designing, implementing and keeping under review an approval process, in line with the Approved Clinician (Wales) Directions 2018 and this guidance on behalf of the Betsi Cadwaladr University Local Health Board. It is responsible for:
- receiving application from those seeking approval
 - considering the required evidence submitted in support of the applications
 - approving practitioners who satisfy the requirements
 - notifying applicants and their nominating employers of the outcome of the applications
 - re-approval of approved clinicians
 - suspending or ending the approval of individuals as necessary
 - maintaining a record of approved clinicians
 - planning and coordinating initial and refresher training for approved clinicians
 - keeping the system and processes of approval under review.

Planners and Providers of Services

- 5.3 Those who plan, secure or provide mental health services are accountable for ensuring that the services that they oversee lawfully and safely support patients who are receiving care and treatment under the provisions of the 1983 Act. To this end they are responsible for ensuring that:
- service models and delivery are fit for purpose
 - the clinical workforce have the capacity and competence to deliver the service models
 - services are employing sufficient numbers of approved clinician to maintain an effective responsible clinician service
 - only suitable qualified and competent mental health professionals are supported in their application to become approved clinicians
 - approved clinicians are properly supported within the organisations to fulfil the functions of approved clinicians

- f. service level agreements with locum agencies ensure that registered professionals working on a “locum” basis are properly qualified and competent to act as approved clinicians.

Clinical Directors, Professional Leads and Service Managers

- 5.4 Clinical directors, professional leads and service managers are accountable for ensuring that the approved clinicians and responsible clinicians within their services are qualified and competent to undertake the functions or the role and are supported and supervised in doing so. They are responsible for ensuring that:
- a. only those eligible to become approved clinicians are supported to apply for approval and re-approval and that opportunities to act in the approved clinician role will be available and supported
 - b. approved clinicians maintain and develop competence to undertake the role by engaging with and having access to an effective continuous professional development programme of clinical and professional supervision, relevant training, education and a performance appraisal that includes consideration of the role and functions of approved and responsible clinicians.

Approved and Responsible Clinicians

- 5.5 Approved clinicians, and those acting as responsible clinicians, are accountable for ensuring that they at all times practice within the boundaries of their competence. They are responsible for:
- a. always acting lawfully when undertaking functions as an approved clinician or responsible clinician
 - b. never practicing beyond the boundaries of their competence
 - c. maintaining their professional registration relating to their core role within the mental health multi-disciplinary team
 - d. maintaining their competence as an approved clinician
 - e. undertaking refresher training relating to the functions of approved clinicians within the final two years of the current approval period
 - f. maintaining their approval as an approved clinician by:
 - i. complying with the conditions of maintaining approval as set out in 2.10 – 2.12 above
 - ii. submitting the required evidence to the Approval Team every five years to seek re-approval
 - iii. ensuring that their professional development/registration portfolio is kept up to date
 - iv. engaging in processes of clinical and professional supervision, continuous professional development education and training and performance appraisal processes.

Prospective Approved Clinicians

- 5.6 Those professionals seeking approval are responsible for ensuring that they meet the requirements for approval to support their application. They are responsible for:
- a. maintaining their professional registration relating to their core role within the mental health multi-disciplinary team
 - b. maintaining and developing their competence to become and approved clinician and to act as a responsible clinician
 - c. ensuring that their professional development portfolio is kept up to date and is available on request as evidence of competence, if necessary
 - d. engaging in processes of clinical and professional supervision, continuous professional development education and training and performance appraisal processes.

Planners and Providers of Training

- 5.7 Those who secure, plan or provide initial and refresher training courses for individuals seeking approval and re-approval to act as Approved Clinicians are accountable for ensuring that such courses are fit for purpose by:
- a. ensuring that the specification for training courses meets the recommended requirements set out in the Mental Health Act 1983 Approved Clinician (Wales) Directions 2018 and this associated guidance
 - b. maintaining a record of those professionals who have successfully completed the training.

Annex A

The Mental Health Act 1983 Approved Clinician (Wales) Directions 2018

SUBORDINATE
LEGISLATION

2018 No.55 (W.)

**NATIONAL HEALTH
SERVICE, WALES**

**Mental Health Act 1983 (Approved
Clinicians) (Wales) Directions 2018**

Made 16 July 2018

Coming into force 20 July 2018

The Welsh Ministers, give the following Directions in exercise of the powers conferred by sections 12(1)(b), 13(2)(a) and 203(9) and (10) of the National Health Service (Wales) Act 2006⁽¹⁾.

Title, Commencement and Application

1.—(1) The title of these Directions is the Mental Health Act 1983 (Approved Clinicians) (Wales) Directions 2018.

(2) These Directions are given to Local Health Boards and apply in relation to approving persons to act as approved clinicians in relation to Wales.

(3) These Directions come into force on 16 July 2018

Interpretation

2. In these Directions—

“the 1983 Act” (“*Deddf 1983*”) means the Mental Health Act 1983⁽²⁾;

“the 2008 Directions” (“*Cyfarwyddydau Deddf Iechyd Meddwl 1983 ynghylch Clinigwyr*

Cymeradwy (Cymru) 2008”) means the Mental Health Act 1983 Approved Clinician (Wales) Directions 2008;

“the 2006 Act” (“*Deddf 2006*”) means the National Health Service (Wales) Act 2006;

(1) 2006 c.42.

(2) 1983 c.20.

except in the context of direction 4 “approve” (“*cymeradwyo*”) and “approval” (“*cymeradwyaeth*”) include “reapprove” (“*ailgymeradwyo*”) and “reapproval” (“*ailgymeradwyaeth*”);

“approved clinician” (“*clinigydd cymeradwy*”) has the meaning given by section 145(1) of the 1983 Act⁽¹⁾;

“approving Board” (“*Bwrdd sy’n cymeradwyo*”) means Betsi Cadwaladr University Local Health Board;

“Board” (“*Bwrdd*”) means a Local Health Board established under section 11 of the 2006 Act;

“initial training course” (“*cwrs hyfforddi cychwynnol*”) means a course which the approving Board considers suitable for the purposes of training a prospective approved clinician;

“medical treatment” (“*triniaeth feddygol*”) has the meaning given in section 145(1) and (4) of the 1983 Act;

“mental disorder” (“*anhwylder meddwl*”) has the meaning given in section 1(2) of the 1983 Act;

“period of approval” (“*cyfnod cymeradwyaeth*”) has the meaning given in direction 5;

“professional body” (“*corff proffesiynol*”) means the body responsible for the registration or listing of members of each of the professions listed in Schedule 1;

“professional requirements” (“*gofynion proffesiynol*”) means the requirements set out in Schedule 1 to these Directions;

“protected characteristic” (“*nodwedd warchoddedig*”) has the meaning given in section 4 of the Equality Act 2010⁽²⁾;

“refresher training course” (“*cwrs hyfforddi diweddarau*”) means a course which the approving Board considers suitable for the purposes of refreshing the skills and competencies of a person who is, or has previously been, an approved clinician;

“relevant competencies” (“*cymwyseddau perthnasol*”) means the competencies listed in Schedule 2 to these Directions;

“responsible clinician” (“*clinigydd cyfrifol*”) has the meaning given in section 34(1) of the 1983 Act; and

(1) The Welsh Ministers have directed the Boards to exercise the function under section 145(1) of the 1983 Act under their powers to make these Directions.

(2) 2010 c.15.

“treatment” (“*triniaeth*”) means medical treatment for a mental disorder.

Function of Approval

3. The Boards are to exercise the function of approving persons to be approved clinicians in their area with the approving Board exercising this function on behalf of each of the Boards.

Granting Approval

4.—(1) Subject to paragraph (2) and direction 9 the approving Board may only grant approval to a person who has applied to be an approved clinician if that person—

- (a) fulfils at least one of the professional requirements;
- (b) is able to demonstrate that they have the relevant competencies;
- (c) has completed an initial training course within the two year period prior to the date of the application for approval; and
- (d) has an enhanced criminal record certificate under section 113B of the Police Act 1997 including suitability information relating to children under section 113BA and vulnerable adults under section 113BB of that Act unless the applicant is:
 - (i) a person who is, or is a partner in a partnership that is, registered under Chapter 2 of the Health and Social Care Act 2008; or
 - (ii) currently employed by a person so registered.

(2) Where a person is approved to act as an approved clinician in relation to England, or has been so approved in the previous 5 years and is not already approved under these Directions, the approving Board may only grant approval to that person to be an approved clinician in relation to Wales if that person—

- (a) fulfils the professional requirements;
- (b) is able to demonstrate that they have the relevant competencies; and
- (c) has an enhanced criminal record certificate under section 113B of the Police Act 1997 including suitability information relating to children under section 113BA and vulnerable adults under section 113BB of that Act unless the applicant is:
 - (i) a person who is, or is a partner in a partnership that is, registered under

Chapter 2 of the Health and Social Care Act 2008; or

- (ii) currently employed by a person so registered.

(3) In determining whether the person seeking approval as an approved clinician has the relevant competencies as required under paragraphs (1)(b) and (2)(b), the approving Board must have regard to the references of that person.

Period of approval

5.—(1) Subject to paragraph (2) the approving Board may approve a person to act as an approved clinician for a period of 5 years.

(2) Where a person is approved to act as an approved clinician under regulation 4(2), the approving Board may only approve that person to act as an approved clinician for the period which is remaining in relation to their approval in relation to England.

Conditions to maintain approval during the period of approval

6.—(1) Any approval granted under these Directions is subject to the following conditions—

- (a) the approved clinician must immediately cease to act as such and immediately notify the approving Board if they are suspended from any of the registers or lists referred to in the professional requirements;
- (b) the approved clinician must immediately notify the approving Board if—
 - (i) any conditions are attached, by their professional body, to their registration or listing,
 - (ii) they become subject to fitness to practise proceedings by their professional body,
 - (iii) they no longer meet the requirements set out in direction 4 or 9, as the case may be, and
 - (iv) they are convicted of, or receive a caution for, a criminal offence in the United Kingdom, or convicted of or receive a caution for an offence outside the United Kingdom which, if committed in England and Wales, would constitute a criminal offence;
- (c) the approved clinician must on request provide evidence to the approving Board that they continue to possess the relevant competencies;
- (d) the approved clinician must immediately cease to act as an approved clinician if the

person's approval is suspended or, upon the expiry of the period of approval where no application for reapproval has been made; and

- (e) such other conditions as the approving Board considers are reasonable and appropriate.

(2) If, during the period of approval, conditions are attached to the approved clinician's registration or listing by their professional body, the approving Board must attach the same conditions to the approval, unless it has suspended the approval under direction 7(3).

Suspension of approval

7.—(1) If at any time during the period of approval the approved clinician's professional body suspends that registration or listing, the approving Board must suspend that clinician's approval for as long as the registration or listing is suspended.

(2) If at anytime during the period of approval an approved clinician has conditions attached to their registration or listing by their professional body, the approving Board may suspend that person's approval.

(3) If at anytime during the period of approval an approved clinician is convicted of, or receives a caution for, a criminal offence in the United Kingdom or is convicted of or receives a caution for an offence outside the United Kingdom which, if committed in England and Wales, would constitute a criminal offence, the approving Board may suspend that person's approval.

(4) Before the approving Board suspends an approved clinician's approval under paragraphs (1), (2) or (3), it must—

- (a) give the approved clinician its reasons for considering suspending the approval;
- (b) give the approved clinician a period of time which the approving Board considers reasonable to make representations in respect of the proposed action; and
- (c) consider representations submitted by the approved clinician to the approving Board.

(5) When the approving Board suspends an approved clinician's approval, the approving Board must inform the approved clinician and the professional body responsible for regulating the approved clinician's professional registration or listing of its reasons for the decision.

(6) If a person's approval is suspended, that person may not act in that capacity unless and until the suspension of approval is ended by the approving Board.

(7) Where the suspension of approval has ended, the approval will continue to run for the remainder of the

period of approval unless the approving Board ends it earlier in accordance with direction 8.

End of approval

8.—(1) Subject to paragraph (2), the approval of an approved clinician ends upon the expiry of the period of approval.

(2) The approving Board must end the approval of an approved clinician before the expiry of the period of approval in the following circumstances—

- (a) if, in the opinion of the approving Board, the approved clinician does not comply with any of the conditions listed in direction 6;
- (b) if, in the opinion of the approving Board, the approved clinician no longer has the relevant competencies;
- (c) if the approved clinician no longer meets the professional requirements; or
- (d) if the approved clinician makes a request, in writing, to end their approval.

(3) Before the approving Board ends an approved clinician's approval under paragraphs (2)(a)-(c), the approving Board must—

- (a) give the approved clinician its reasons for considering ending the approval;
- (b) give the approved clinician a period of time which the approving Board considers reasonable to make representations in respect of the proposed action; and
- (c) consider representations submitted by the person to the approving Board.

(4) Where the approving Board ends the approval of an approved clinician under paragraph (2), the approving Board must immediately notify that clinician in writing of the date of the ending of approval and the reason for the ending of approval.

Reapproval

9.—(1) A Board may grant reapproval to a person who has previously been approved as an approved clinician in Wales where—

- (a) the previous approval has been in force within the 5 year period immediately preceding the date of the application for reapproval;
- (b) the person seeking reapproval fulfils the professional requirements;
- (c) the person seeking reapproval is able to demonstrate that they have the relevant competencies;
- (d) the person seeking reapproval has an enhanced criminal record certificate under

section 113B of the Police Act 1997 including suitability information relating to children under section 113BA and vulnerable adults under section 113BB of that Act unless the applicant is:

- (i) a person who is, or is a partner in a partnership that is, registered under Chapter 2 of the Health and Social Care Act 2008, or
 - (ii) currently employed by a person so registered, and
- (e) the person has completed a refresher training course within the 2 year period immediately preceding the date on which the person's previous period of approval expired.

(2) In determining whether the person seeking reapproval as an approved clinician has the relevant competencies as required under paragraph (1)(c), the approving Board must have regard to the references of that person.

Monitoring and Records

10.—(1) The approving Board must keep a record of all approved clinicians that it approves and those records must include—

- (a) the application;
- (b) the person's name;
- (c) the person's profession;
- (d) the dates of approval;
- (e) the period for which approval is granted;
- (f) details of the completion of any training referred to in directions 4 and 9;
- (g) the person's references;
- (h) details of any—
 - (i) conditions attached to the approval,
 - (ii) suspension of approval and the date that such suspension comes to an end,
 - (iii) ending of approval.

(2) The approving Board must keep the records referred to in paragraph (1), in relation to each approved clinician approved by it, for a period of 5 years following the ending of an approved clinician's approval.

Revocation

11. Subject to the saving provisions in direction 12 the following directions are revoked—

- (a) The 2008 Directions;

- (b) The Mental Health Act 1983 Approved Clinician (Wales) (Amendment) Directions 2009.

Transitional and saving provisions

12.—(1) Where immediately before the date on which these Directions come into force a person is approved as an approved clinician, on and after that day these Directions will apply to that person's approval as if the approval were granted in accordance with these Directions save that the period of approval will be begin on the date upon which approval was actually granted under the 2008 Directions.

(2) Where a person has made an application for approval prior to the day on which these Directions come into force, but that application has not yet been determined, that application is to be determined in accordance with the 2008 Directions notwithstanding the revocation of those Directions.

(3) Where an application to which paragraph (2) applies results in the approving Board granting approval, these Directions will apply to that approved clinician's approval as if such approval had been granted under these Directions.

Signed under the authority of the Cabinet Secretary for Health and Social Services, one of the Welsh Ministers

Dr Elizabeth Davies
Deputy Director, Mental Health and Vulnerable
Groups Division

Dated

16 July 2018

SCHEDULE 1

Direction 4(a)

Professional Requirements

1. In order to fulfil the professional requirements a person must submit evidence to demonstrate that they are one or more of the following—

- (a) a registered medical practitioner;
- (b) a psychologist who is listed in the British Psychological Society's Register of Chartered Psychologists and who holds a relevant practising certificate issued by that Society⁽¹⁾ or a practitioner psychologist registered in a list maintained by the Health and Care Professions Council⁽²⁾;
- (c) a first level nurse, registered in Sub-Part 1 of the Nurses' Part of the register maintained under article 5 of the Nursing and Midwifery Order 2001⁽³⁾, with the inclusion of an entry indicating their field of practice is mental health or learning disabilities nursing;
- (d) an occupational therapist listed in the register maintained by the Health and Care Professions Council;
- (e) a social worker listed in the register maintained by Social Care Wales⁽⁴⁾ or the Health and Care Professions Council.

(1) The British Psychological Society is a Royal Charter body, registered as a charity in England and Wales No.229642 and is at St. Andrew's House, 48 Princess Road East, Leicester, LE1 7DR.

(2) The Health Professions Council is set up under article 3 of the Health Professions Order 2001, S.I. 2002/254.

(3) S.I. 2002/235.

(4) The Care Council for Wales is established under section 54(1) of the Care Standards Act 2000 (c.14). Section 54(1) was repealed but the body known as the Care Council for Wales is to continue in existence but is renamed as Social Care Wales by virtue of section 67 of the Regulation and Inspection of Social Care (Wales) Act 2016 (2016 anaw 2).

SCHEDULE 2

Direction 4(b)

Relevant competencies

1 The role of the approved clinician

1.1 A comprehensive understanding of the role, legal responsibilities and key functions of an approved clinician and responsible clinician.

2. Values based practice

2.1 The ability to identify and apply the range of appropriate and effective health and social care treatments and treatment settings which can be provided in the least restrictive methods for those dealt with or who may be dealt with under the 1983 Act.

2.2 An understanding and respect of individuals' unique personal characteristics.

2.3 Sensitivity to individuals' needs in terms of respect to the patient and the patient's choice, dignity and privacy whilst exercising the role of approved clinician or responsible clinician.

2.4 The ability to promote the rights, dignity and self determination of patients consistent with their own needs and wishes, to enable them to contribute to the decisions made affecting their quality of life and liberty.

3. Assessment

3.1 The ability to identify the presence or absence of mental disorder and the severity of the disorder, including whether it is of a kind or degree warranting the use of detention under the 1983 Act.

3.2 The ability to undertake mental health assessments incorporating biological, psychological, cultural and social perspectives.

3.3 The ability to assess all levels of clinical risk, including (but not limited to) the safety of the patient

and others within an evidence based framework for risk assessment and management.

3.4 The ability to demonstrate a high level of skill in determining whether a patient has capacity to consent to treatment.

4. Care and Treatment Planning

4.1 Possession of the skills and knowledge necessary to undertake safe, effective and efficient care planning, including (but not limited to) being able to:

- (a) involve patients and (where appropriate) their families and carers in care planning;
- (b) assess patients' needs;
- (c) formulate individual care plans to meet identified patient needs;
- (d) ensure that care plans are implemented as agreed;
- (e) review and evaluate care plans (and revise as necessary).

5. Treatment

5.1 The skills and knowledge necessary to harness the specialist treatment expertise of multi-disciplinary teams for the benefit of the patient. To include (but not be limited to) an understanding of the roles and specialist competencies of the various members of a multidisciplinary team, in relation to specific treatments and therapies.

5.2 Broad understanding of all mental health related treatments, i.e. physical, psychological and social interventions.

6. Leadership and Multi Disciplinary Team Working

6.1 Possession of the skills and knowledge necessary to:

- (a) lead effectively a multi-disciplinary team in the delivery of co-ordinated programmes of care, in order to meet the needs of patients for whom he or she is responsible;
- (b) take into account the views and opinions of patients and (where appropriate) their families and carers when developing programmes of care involving the team;
- (c) consider objectively the professional opinions of other colleagues within the team when formulating programmes of care, so as to ensure that care and treatment decisions are multidisciplinary and based on sound evidence.

6.2 An advanced level of skills in making and taking autonomous responsibility for complex judgements and decisions, without referring to supervision in each individual case.

7. Equality, diversity and rights

7.1 The ability to demonstrate up to date applied knowledge and understanding of relevant equality legislation and equality issues.

7.2 An awareness of how cultural factors and personal values can affect practitioners' judgements and decisions in the application of mental health legislation.

7.3 The ability to identify, challenge, and where possible redress discrimination and inequality in all its forms in relation to approved clinician practice.

7.4 The ability to demonstrate up to date applied knowledge and understanding of the rights of children and young persons.

7.5 The ability to demonstrate up to date applied knowledge and understanding of the rights of older people, in particular the right of older people to make their own decisions about their lives.

8. Mental Health Legislation and Policy

8.1 Up to date working knowledge of:
(a) relevant mental health legislation, including but not limited to, the 1983 Act and the Mental Capacity Act 2005(1),and the Mental Health (Wales) Measure 2010(2),
(b) other relevant legislation, including but not limited to, the Human Rights Act 1998(3), the Children Act 1989(4),the Children Act 2004(5) and the Social Services and Well-being (Wales) Act 2014(6),
(c) relevant guidelines from the National Institute for Health and Care Excellence, codes of practice and national policies and protocols; and
(d) relevant case law.

8.2 In the above paragraph, the term “relevant” means relevant to the practice of approved clinicians and responsible clinicians.

9 Communication

9.1 The ability to communicate effectively with professionals, patients , carers and others, particularly in relation to decisions taken and the underlying

(1) 2005 c.9.
(2) 2010 nawn. 7.
(3) 1998 c.42.
(4) 1989 c.41.
(5) 2004 c.31.
(6) 2014 anaw. 4.

reasons for these, and including an ability to determine whether a patient has capability or competency to consent to a treatment.

9.2 Consideration of the particular needs of individuals for whom Welsh is their language of choice.

9.3 Consideration of the particular needs of patients with protected characteristics.

9.4 The ability to demonstrate appropriate record keeping in accordance with legal requirements.

9.5 The ability to compile and complete statutory documentation and to provide written reports as required of an approved clinician.

9.6 The ability to write effective reports.

9.7 The ability to competently present evidence, both verbal and written, to courts and tribunals.

Annex B

Summary of requirements for Initial Approval

		Doctors on the Specialist Register of the GMC	Doctors in Final Year of higher specialist training towards inclusion on Specialist Register of the GMC	Doctors not on the Specialist Register of the GMC	Registered Professionals in Nursing, Occupational Therapy, Social Work and Psychology
1.	Completed error- free application	Yes	Yes	Yes	Yes
2.	Two references, one of which should be from current or latest employer	Yes	Yes	Yes	Yes
3.	A validated Curriculum Vitae to show evidence of activity and learning relating to the Approved Clinician Competencies	Yes	Yes	Yes	Yes
4.	A letter from Clinical Director confirming opportunities to act as an Approved Clinician	Yes	Yes	Yes	Yes
5.	Confirmation from Professional Lead that the applicant will be supported to act as an Approved Clinician	No	No	No	Yes
6.	Up to date evidence of continuing professional development requirements	Yes	Yes	Yes	Yes
7.	Evidence of an appraisal demonstrating satisfactory outcome	Yes	Yes – ARCP outcome	Yes	Yes
8.	Evidence of attendance at a two day approved clinician induction course two year prior to date of application	Yes	Yes	Yes	Yes

		Doctors on the Specialist Register of the GMC	Doctors in Final Year of higher specialist training towards inclusion on Specialist Register of the GMC	Doctors not on the Specialist Register of the GMC	Registered Professionals in Nursing, Occupational Therapy, Social Work and Psychology
9.	Evidence of extant professional registration (meeting the requirement of Schedule 1 of the Directions)	Yes	Yes	Yes	Yes
10.	An enhanced criminal record certificate including suitability information for working with children and vulnerable adults	Yes	Yes	Yes	Yes
11.	Confirmation of whether an application for approval as an Approved Clinician elsewhere has been refused	Yes	Yes	Yes	Yes
12.	Portfolio of evidence of competencies outlined in Schedule 2 of the Directions	No	No	Yes	Yes
13.	Attend a meeting with the Approval Board where required	No	No	Yes	Yes
14.	Certificate of completion of training for ongoing approval	No	Yes	No	No

Annex C

Summary of requirements for Re-Approval

		Doctors on the Specialist Register of the GMC	Doctors in Final Year of higher specialist training towards inclusion on Specialist Register of the GMC	Doctors not on the Specialist Register of the GMC	Registered Professionals in Nursing, Occupational Therapy, Social Work and Psychology
1.	Completed error-free application form	Yes	N/A	Yes	Yes
2.	Two references, one of which should be from current or latest employer	Yes	N/A	Yes	Yes
3.	Curriculum Vitae to include employment history in the five years since last approval and evidence of activity and learning relating to the Approved Clinician Competencies	Yes	N/A	Yes	Yes
4.	Curriculum Vitae validated by the relevant Service Manager	Yes	N/A	Yes	Yes
5.	Up to date evidence of continuing professional development requirements	Yes	N/A	Yes	Yes
6.	Evidence of appraisal demonstrating satisfactory outcome.	Yes	N/A	Yes	Yes
7.	Evidence of attendance at an approved clinician refresher course within two year prior to expiry date of current approval	Yes	N/A	Yes	Yes

		Doctors on the Specialist Register of the GMC	Doctors in Final Year of higher specialist training towards inclusion on Specialist Register of the GMC	Doctors not on the Specialist Register of the GMC	Registered Professionals in Nursing, Occupational Therapy, Social Work and Psychology
8.	Evidence of extant professional registration (meeting the requirement of Schedule 1 of the Directions)	Yes	N/A	Yes	Yes
9.	An enhanced criminal record certificate including suitability information for working with children and vulnerable adults	Yes	N/A	Yes	Yes
10.	Confirmation of whether an application for approval as an Approved Clinician elsewhere has been refused	Yes	N/A	Yes	Yes
11.	A letter from Clinical Director confirming ongoing opportunities to act as an Approved Clinician	Yes	N/A	Yes	Yes
12.	Confirmation from Professional Lead that the applicant will continue to be supported to act as an Approved Clinician	No	N/A	No	Yes