

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

Title of proposal:	Fitness to practise cases: powers to extend interim orders
Official(s) completing the Integrated Impact Assessment (name(s) and name of team):	Social Services and Integration Division, Workforce Policy
Department:	Health, Social Services and Integration Department
Head of Division/SRO (name):	Head of Division, Laurie Hayward; SRO with responsibility for RISCA 2016, Alistair Davey
Cabinet Secretary/Minister responsible:	Minister for Social Care, Dawn Bowden MS
Start Date:	

SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

Background

This impact assessment relates to section 19 of the Health and Social Care (Wales) Bill (“the Bill”), which amends the Regulation and Inspection of Social Care (Wales) Act 2016 (“The 2016 Act”). Parts 2 to 8 and Schedule 2 of the 2016 Act provide the basis on which Social Care Wales (‘SCW’) is established and undertakes functions in relation to the registration, regulation and training of social care workers.

The aim of these proposed workforce amendments is to make operational and administrative changes to the 2016 Act to clarify or adjust existing provisions that will support SCW in its role as the workforce regulator and are completely administrative in nature.

Impact

Section 19 of the Bill amends the provisions within section 147 of the 2016 Act, which relate to the making and review of interim orders.

Interim orders enable temporary restrictions to be imposed upon a registered person while investigations are undertaken into allegations made against that individual. There are two types of interim orders - an interim conditional registration order, which allows a person to continue practicing but in a limited capacity; and an interim suspension order, which prevents the registered person from practicing at all until there is a final determination of their case.

Panels do not currently have the power to extend an interim order. Should there be a need to extend an interim order, SCW is required to apply to the First-tier tribunal (the tribunal) to request an extension. The Bill will amend section 147 of the 2016 Act to provide a panel (interim orders panel or fitness to practice panel before which the interim order proceedings are brought) with the power to extend an interim order up to a maximum of 18 months from the date it was first made, without an application being required to the tribunal. This will provide a panel with the power to take proportionate action ensuring that interim orders remain in place for the minimum period necessary and avoid any stress and/or administrative/cost burden to the registered person and employer that may result from an application being made to the tribunal. It will also reduce the number of applications to extend an interim order made to the tribunal, and as a result reduce the administrative and cost burden for both the workforce regulator and tribunal service.

Children's Rights

Ministers are required to have due regard to the United Nations Convention on the Rights of the Child when exercising any of their functions. The convention protects the human rights of children up to the age of 18.

The proposals are focused on providing Social Care Wales panels with the power to extend interim orders for up to a period of 18 months, without an application being required to be made to the tribunal before this period. The proposals may have an impact on people who are aged 16 to 18 working in social care settings, or who are on placements or apprenticeship schemes and that may be about to go through or are going through a fitness to practice procedure. The potential impact for these workers will be positive, as it will help to reiterate that the system has some flexibility and can offer them support should they face hardships or a fitness to practise panel.

SECTION 8. CONCLUSION

8.1 How have people most likely to be affected by the proposal been involved in developing it?

The Welsh Government has undertaken a consultation on the proposals and the consultation documents were published bilingually on the Welsh Government's website and contained a response form which could either be submitted via email or in hard copy.

All versions of the consultation were made available on the following web pages –

[Proposed changes to legislation on social care and continuing health care | GOV.WALES](#)

[Newidiadau arfaethedig i'r ddeddfwriaeth ar ofal cymdeithasol a gofal iechyd parhaus y GIG | LLYW.CYMRU](#)

The details of the consultation were circulated to a range of key stakeholders and representative bodies including older people (i.e. Age Cymru), children's groups (i.e. Voices from Care Cymru) disability groups (i.e. Disability Wales) and minority and ethnic groups (i.e. Race Council Wales) and the Welsh Language Commissioner. Representations were received from over 190 organisations but only 50 of these organisations responded to the questions on the workforce proposals and have been included in our analysis of the responses.

An analysis of the responses has been undertaken and was posted on our website at <https://www.gov.wales/proposed-changes-legislation-social-care-and-continuing-health-care>.

https://www.gov.wales/sites/default/files/consultations/2023-06/summary-of-responses_0.pdf.

8.2 What are the most significant impacts, positive and negative?

Positive impacts

The proposals will have a positive effect on the regulatory regime for social care workforce as they rectify some unintended consequences that have created unnecessary administrative burdens on the regulator, Social Care Wales (SCW). With these minor adjustments, we aim to provide SCW panels with the mechanisms to review and extend an interim order up to a maximum of 18 months (from the date the order was first made) without the need to apply to the first-tier tribunal of HM Courts and Tribunals Service (HMCTS). This will result in a saving of resources for both the regulator and the tribunal, due to the reduction in the number of applications to the tribunal. These resources could then be reinvested into the regulatory regime.

Negative impacts

We do not envisage any negative impacts of these changes, which are designed to provide SCW with powers to improve the regulatory system and streamline its processes.

8.3 In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals; and/or,**
- **avoid, reduce or mitigate any negative impacts?**

Our impact assessments suggest that the proposal will have a number of positive benefits for the communities they serve. Registered staff are expected to adhere to a Code of Professional Practice, which includes ensuring that actions promote equality, diversity and inclusion. Where a registered individual is subject to an allegation of failing to meet the Code, they will likely find themselves placed under an interim order that suspends them from their work whilst these allegations are investigated. The proposal will allow the panel to act proportionately, providing them with the power to review and extend an interim order up to a maximum of 18 months, from the date the order was first made. This will ensure that any interim order is put in place for the minimum time necessary to complete the investigation and minimise the stress and anxiety that such events have on registered individuals and their employers.

The proposal links with the Welsh Government's commitment to raise the profile of the social care workforce and the sector as a whole. By showcasing that we have a registered workforce that not only have comparable skills but who also adhere to a Code of Professional Practice like their healthcare counterparts, we begin to change public perception that these are unskilled and unqualified workers. By providing the workforce with a clear and professional career pathway, we build a workforce that has greater job satisfaction that will see an improvement in staff retention; and improve the sustainability of the sector, create greater continuity of care and improved business resilience. With greater recognition of the comparable skills between health and social care, we can move forward the "A Healthier Wales" commitment towards greater integration of services; improved training and development; and reinforce communication between healthcare and social care staff to build more resilient care and support services for the future.

These actions will help us continue to meet a number of the seven well-being goals (A Resilient Wales, A Prosperous Wales, A more Equal Wales and A Wales of Vibrant Culture and Thriving Welsh Language) but more importantly have longer benefits for individuals and businesses. In terms of the equality impacts identified, we will raise these with the workforce regulator, Social Care Wales, and work with them to promote greater diversity in the social care workforce and create a workforce that reflects society.

8.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

The Welsh Government will work with Social Care Wales to monitor and evaluate the progress of these changes and workers' experiences of the revised processes. We also remain in regular contact with key stakeholders in the sector, including unions and provider representatives, at which issues relating to registration and fitness to practise and its impact on providers and social care workers are discussed.

What plans are in place for post implementation review and evaluation?

We will work with partners to develop and implement plans to oversee the monitoring and evaluation of our proposals. We will work with Social Care Wales to deliver these mechanisms and understand the impacts these proposals have on the workforce, recruitment and retention.