



Gofal Cymdeithasol **Cymru**  
Social Care **Wales**

**SOCIAL CARE WALES  
(INTERIM ORDERS)  
RULES 2020**

**April 2020**

The regulation of the registration and fitness to practise of the social care workforce by Social Care Wales is governed by three types of legal documents, which are **all** applicable to the registration and fitness to practise of registered persons:

- **Regulation and Inspection of Social Care (Wales) Act 2016 (the Act);**
- **Welsh Government Regulations;**
- **Social Care Wales' suite of Registration Rules and Fitness to Practise Rules.**

Neither the content of the Act nor the Regulations are contained in these Rules. You should therefore read the content of the Act and the Regulations in conjunction with the Rules to provide a comprehensive understanding of the registration and fitness to practise procedures.

The Act is available at: <http://www.legislation.gov.uk/anaw/2016/2/contents/enacted>.

The Regulations are listed below and can be found at - <http://www.legislation.gov.uk/wsi>

- The Social Care Wales (Extension of Meaning of "Social Care Worker") Regulations 2016
- The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations 2016
- The Social Care Wales (Content of Register) Regulations 2016
- The Social Care Wales (List of Persons Removed from the Register) Regulations 2016
- The Social Care Wales (Constitution of Panels: Prescribed Persons) Regulations 2016
- The Social Care Wales (Proceedings before Panels) Regulations 2016
- The Social Care Wales (Proceedings before Panels) (Amendment) Regulations 2017
- The Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2018
- Social Care Wales (Specification of Social Care Workers) (Registration) (Amendment) Regulations 2020

The Social Care Wales rules are available at:

<https://socialcare.wales/collections/social-care-wales-2017-rules>

Social Care Wales, in exercise of its powers under sections 73(2) and (4) and 91(2) of the Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act") and of all other powers enabling Social Care Wales in that behalf, and after consulting in accordance with section 75 of the Act, hereby makes the following Rules:

Social Care Wales, in exercise of its powers under sections 73(2) and (4) and 174(1)(b) and (c) of the Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act"), Regulations 26 and 37 of the Social Care Wales (Proceedings before Panels) Regulations 2016 as amended and of all other powers enabling Social Care Wales in that behalf, and after consulting in accordance with section 75 of the Act, hereby makes the following Rules:

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## PART I

### INTRODUCTION

#### Citation and commencement

1. (1) These Rules may be cited as the Social Care Wales (Interim Orders) Rules 2020 and shall come into force on 1 April 2020.
- (2) The Social Care Wales (Interim Orders) Rules 2017 ("the 2017 Rules") are hereby revoked save that the 2017 Rules shall continue to apply in relation to any interim order panel hearings or fitness to practise interim orders panel hearings which commenced before 1 April 2018, but which are not completed by that date.
- (3) The Social Care Wales (Interim Orders) Rules 2018 ("the 2018 Rules") are hereby revoked save that the 2018 Rules shall continue to apply in relation to any interim order panel hearings or fitness to practise interim orders panel hearings which commenced on or after 1 April 2018, but which are not completed by 1 April 2020.

#### Interpretation

2. (1) In these Rules, unless the context otherwise requires:
  - “**Act**” means the Regulation and Inspection of Social Care (Wales) Act 2016;
  - “**Care Council**” means one of the bodies keeping a relevant register as referred to in section 111(4) (b), (c) and (d) of the Act;
  - “**case**” means:
    - (a) proceedings relating to interim proceedings before an interim orders panel, or
    - (b) interim orders proceedings before a fitness to practise panel;
  - “**case management meeting**” means a meeting before a panel of one or three panel members, advised by a legal adviser, established to undertake a case management meeting under Part II of these Rules;
  - “**civil procedure rules**” means the rules of court made under section 2 of the Civil Procedure Act 1997;
  - “**clerk**” means the person responsible for the administrative arrangements for the meeting or hearing;
  - “**days**” means calendar days;
  - “**Directive 2005/36/EC**” means the Directive on the Recognition of Professional Qualifications, as amended by EU Directive 2013/55/EU;

**“duly authorised person”** means an individual to whom authority has been delegated by Social Care Wales and can include:

- (a) one or more members of Social Care Wales's staff, and/or
- (b) one or more persons appointed by Social Care Wales for that purpose;

**“employer”** includes employment agencies, the self-employed, and any employer of a social worker or social care worker (working in the capacity of a social worker or social care worker) of whom Social Care Wales is aware;

**“fitness to practise hearing”** means a hearing before a fitness to practise panel in fitness to practise proceedings;

**“fitness to practise panel”** means a panel established to:

- (a) make determinations in relation to the fitness to practise of persons registered in the register to practise as social care workers;
- (b) suspend, or attach conditions to, a person's registration in the register pending a determination of the kind mentioned in paragraph (a);

**“in camera”** means in the absence of the parties, their representatives and the public;

**“interim conditional registration order”** means an interim order imposing conditions on a registered person's registration;

**“interim order”** means an interim conditional registration order or an interim suspension order;

**“interim orders hearing”** means:

- (a) a hearing before an interim orders panel in interim orders proceedings, or
- (b) a hearing before a fitness to practise panel in interim orders proceedings;

**“interim orders panel”** means a panel established with powers to suspend, or attach conditions to, a person's registration in the register pending a determination by a registration appeals panel or a fitness to practise panel;

**“interim order proceedings”** means proceedings before an interim orders panel to which Chapter 4 of Part 6 of the Act applies;

**“interim suspension order”** means an order suspending a registered person's registration;

**“legal adviser”** means a person with a ten-year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 who is entitled to practise law in England and Wales;

**“notice”** means information issued in relation to the proceedings of an interim orders panel or a fitness to practise panel;

**“panel”** means a Social Care Wales interim orders panel or fitness to practise panel, as the case may be, constituted in accordance with section 174 of the Act before which the proceedings are brought;

**“parties”** means the registered person to whom interim orders proceedings relate and Social Care Wales (or their representatives);

**“presenter”** means the person acting on behalf of Social Care Wales at a hearing before a panel, and may include an officer of Social Care Wales or a solicitor or a barrister engaged by Social Care Wales for this purpose;

**“register”** means the register maintained by Social Care Wales under section 80 of the Act;

**“registered person”** means the registered person in respect of whom the referral to the interim orders panel or the fitness to practise panel (as the case may be) has been made;

**“registration”** means the entry in the register relating to a particular registered person;

**“registration appeals panel”** means a panel established to make determinations under Part 4 of the Act in relation to the initial registration in, remaining on and being restored to, the register;

**“regulatory body”** means a body in the United Kingdom or elsewhere that has responsibility for the regulation, audit, inspection, licensing or review of social care, health or education provision, or the regulation or licensing of a social care, health or teaching profession;

**“Social Care Wales”** means the body corporate known as Social Care Wales and which was previously known as the Care Council for Wales;

**“tribunal”** means the First-tier Tribunal (Care Standards);

(2) In these Rules, unless the context otherwise requires:

- (a) words in the singular include the plural, and words in the plural include the singular;
- (b) any reference to a numbered rule or part is a reference to the rule or part bearing that number in these rules, as the case may be;
- (c) any reference in a rule or a part to a numbered paragraph, is a reference to the paragraph bearing that number in that rule or part;
- (d) any reference in a paragraph in a rule or a part to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that rule or part.

## PART II

### INTERIM ORDERS

#### Scope and interpretation

3. (1) Part III of these rules ('interim orders panel hearings') apply where a matter has been referred to an interim orders panel.
- (2) Part IV of these rules ('fitness to practise interim orders hearings') apply 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:
  - (a) whether to make an interim order, or
  - (b) the review of an interim order.
- (3) Where a case has been referred to a fitness to practise panel, any interim order must be made before the matter is disposed with by the fitness to practise panel in accordance with sections 135 to 138 of the Act.

#### Conduct of proceedings

4. (1) In considering whether to make or review an interim order, the interim orders panel and the fitness to practise panel will conduct its proceedings in accordance with the requirements of these Rules and the requirements of the SCW (Proceedings before Panels) Regulations 2016.

#### Witness summons

5. (1) Where one of the parties requires the attendance of a witness or the production of a material document or evidence by a witness who has refused to attend or produce the document before the hearing or failed to confirm that they will do so, that party may make a written application for Social Care Wales to apply to the County Court or the High Court to issue a witness summons in accordance with Rule 34.4 of the Civil Procedure Rules 1998.
- (2) A written application made under paragraph (1) above, shall be considered by a duly authorised person who may determine that:
  - (a) the application should be granted;
  - (b) the application should be refused; or
  - (c) the application should be considered by a panel at a case management meeting under rule 6 or a hearing convened under Part III of these rules.
- (3) In making a determination, the duly authorised person or the panel (as the case may be) shall consider the relevance and importance of the evidence of the witness or document concerned and whether it is fair and appropriate to make the direction sought.
- (4) Where an application under paragraph (2) above is granted by a duly authorised person or a direction is given by a panel under rule 6(8)(h), Social Care Wales will apply to the County Court or High Court and obtain the appropriate witness summons.



- (5) Where Social Care Wales made the application for a direction for the witness summons, Social Care Wales will arrange for the witness summons to be served on the witness concerned.
- (6) Unless otherwise directed, where the application for a direction was made by or on behalf of the registered person, Social Care Wales will provide the registered person or his representative with the witness summons after it has been issued and the registered person or their representative will arrange to serve the witness summons on the witness concerned.
- (7) Unless otherwise directed, the party serving the witness summons shall be responsible for payment of any travelling expenses and/or compensation for loss of time as required by Rule 34.7 of the Civil Procedure Rules.

### **Case management meeting**

6. (1) A case management meeting will be convened:
  - (a) where following a request by one of the parties a duly authorised officer considers that a case management meeting would be appropriate; or
  - (b) at the direction of a duly authorised person;
  - (c) at the direction of a panel;
- (2) A case management meeting may be conducted by personal attendance at the meeting or participation by telephone or video conference.
- (3) Subject to paragraph (4), a clerk shall send an appropriate notice to the registered person and to the presenter not less than five days before the case management meeting.
- (4) The panel may dispense with the notice period referred to in paragraph (3) if the panel is satisfied that the public interest requires a shorter notice.
- (5) A case management meeting will consist of one panel member unless:
  - (a) a duly authorised person determines that the panel should consist of three members; or
  - (b) where a panel directs that a case management meeting should be held, the panel also directs that the panel for the case management meeting should consist of three members.
- (6) The panel member or members may or may not be the same member(s) who will be used for the interim orders panel hearing or fitness to practise interim orders hearing, as the case may be.
- (7) The panel at a case management hearing will be advised by a legal adviser.
- (8) The case management meeting may give directions for the purpose of securing the just, expeditious and effective running of the case, and may make a determination in relation to a preliminary matter that can only be determined by a case management panel, including whether:
  - (a) particular evidence should be admitted;
  - (b) a particular witness or witnesses should be permitted to give oral evidence at an interim order hearing;

- (c) a particular witness should be treated as requiring special measures and, if so, what special measures should be put in place;
  - (d) there should be a joint hearing involving two or more registered persons;
  - (e) whether the interim orders hearing should be in public or in private, in accordance with regulations 22 or 33 of the Social Care Wales (Proceedings before Panels) Regulations 2016;
  - (f) the registered person may be represented at the interim orders hearing by a person other than a solicitor, counsel or a representative from a professional body;
  - (g) the interim orders proceedings can be conducted without a hearing where the circumstances in regulations 18(1) or 30(1) of the Social Care Wales (Proceedings before Panels) Regulations 2016 apply.
  - (h) a direction for a witness summons should be given.
- (9) The procedure at the case management meeting will be determined solely by the case management panel.
- (10) A case management meeting will be held in private, unless the case management panel direct otherwise.
- (11) Where a party fails to comply with the directions given at a case management meeting, an interim orders panel or fitness to practise panel, as the case may be, may draw such inferences as it considers appropriate and/or take whatever decision it thinks is most appropriate in relation to the admissibility of evidence or any other relevant matter.

## PART III

### INTERIM ORDERS PANEL HEARINGS

#### Notice of the hearing

7. (1) Where a case is referred to an interim orders panel under sections 94(3), 118(2)(b), 119(2) or 125(2) of the Act, notice shall be sent to the registered person which shall:
- (a) inform the registered person of the right to attend the hearing;
  - (b) inform the registered person of the time and venue for the hearing;
  - (c) provide the registered person with a brief statement of the matters which appear to raise the question whether:
    - (i) the registered person's registration should be suspended or be subject to conditions; and
    - (ii) why such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the registered person;
  - (d) inform the registered person of the rights to give evidence in person, to call witnesses and to cross examine any witnesses called by Social Care Wales;
  - (e) inform the registered person of the right to make oral submissions to the panel in person or to be represented by:
    - (i) a solicitor or counsel; or
    - (ii) a representative from any professional organisation; or
    - (iii) if the panel agrees, any other person;
  - (f) inform the registered person that the hearing will take place in private unless the registered person requests that the hearing be held in public and the interim orders panel considers that doing so would not be against the public interest;
  - (g) inform the registered person that, subject to paragraph (3), any application to be represented by a person other than those listed in paragraph (e) (i) or (ii) above, must be sent to the clerk no later than seven days in advance of a hearing setting out the name of the proposed representative and confirming that the proposed representative will not be called as a witness;
  - (h) inform the registered person that a person representing or advising the registered person may not give evidence;
  - (i) inform the registered person that, subject to paragraph (3), if they do not wish to attend the hearing, they may submit written representations not later than three days before the date of the hearing for consideration by the panel;
  - (j) inform the registered person of the possible outcomes open to the panel;
  - (k) request confirmation as to whether the registered person intends to:
    - (i) attend the hearing;
    - (ii) be represented at the hearing;
    - (iii) submit written representations;

- (iv) ask for the application to be determined without a hearing if the circumstances in regulation 30(1) of the Social Care Wales (Proceedings before Panels) Regulations 2016 apply<sup>1</sup>;
  - (l) enclose copies of any documents to be put before the panel, including a copy of these Rules.
- (2) Subject to paragraphs (3) and (4) below, where a notice of hearing under paragraph (2) is issued, an application for an interim order shall be heard no earlier than seven days after the date on which the notice of hearing was served upon the registered person.
  - (3) The panel may dispense with the requirements of paragraph (1)(g) or (i) or the notice period referred to in paragraph (2) if the panel is satisfied that the public interest or the interests of justice require a shorter period.
  - (4) Notwithstanding paragraph (3) above, the panel shall not impose an interim order on a registered person's registration without first giving the registered person notice of such intention as is reasonable in all the circumstances of the case.

### **Postponement of the hearing**

- 8. (1) Where either party wishes the hearing to be postponed, an application shall be made in writing to Social Care Wales.
- (2) The party making such application shall serve a copy of the application on the other party, together with any supporting documentation.
- (3) The party served with the application may submit a written response to the chair of the panel.
- (4) The application shall be considered by the chair of the panel who, subject to paragraph (5) shall determine the application, taking into account:
  - (a) the submissions of both parties;
  - (b) any likely prejudice to either party;
  - (c) the public interest in the expeditious disposal of the case.
- (5) Where the chair considers that a determination cannot be made without further information or submissions from one or more of the parties the chair may direct that:
  - (a) the application be referred to a case management meeting for consideration under rule 6; or
  - (b) where the application for postponement is made less than three days before the date of the interim orders hearing, that the application should be determined by the panel convened to hear the application for an interim order.

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<sup>1</sup> Section 30 of the Social Care Wales (Proceedings before Panels) Regulations 2016 specifies circumstances in which an application for an interim orders hearing may be determined without a hearing, This is only possible if the circumstances specified in paragraphs (a), (b), (c) and (d) of regulation 30 apply.

- (6) In the event that the application for postponement is granted, or the matter has to be re-scheduled for some other reason, the clerk shall inform the parties of the new hearing date, as soon as possible.

### **Procedure at an interim orders panel hearing**

9. (1) If the registered person is not present and not represented at the hearing, the panel shall:
- (a) require evidence that notice of the hearing has been sent to the registered person in accordance with rule 7 or of the efforts made to give notice of the hearing to the registered person, and
  - (b) enquire whether any reasons for the registered person's non-attendance have been communicated to Social Care Wales.
- (2) Where paragraph (1) applies, the interim orders panel shall determine whether to exercise the discretion under regulation 36(4) of the Social Care Wales (Proceedings before Panels) Regulations 2016 to proceed with the hearing in the absence of the registered person or adjourn and shall give reasons for its decision.
- (3) The following procedure shall be followed at an interim orders panel hearing:
- (a) the presenter shall outline the facts of the case and set out the reasons why the registered person's registration should be made subject to an interim order, together with any evidence in support;
  - (b) the registered person may set out the reasons why such application should not be granted by the panel, together with any evidence in support;
  - (c) the panel shall obtain advice from the legal adviser;
  - (d) the panel shall obtain advice from the medical adviser (if present);
  - (e) the panel shall deliberate *in camera*;
  - (f) where the panel determines that an interim conditional registration order should be imposed, the panel shall announce the condition(s) to be included in that order and invite the registered person or the registered person's representative (when present) and the presenter to comment on the wording of the proposed condition(s) and the registered person's ability to comply, prior to the panel finalising the wording of the condition(s);
  - (g) the panel shall determine the application and announce its decision, and the reasons for that decision, in the presence of the parties (when present);
  - (h) where the proceedings are held in public, the panel shall announce its decision, and the reasons for that decision, in public.

### **Evidence**

10. (1) Subject to regulation 32(2) of the Social Care Wales (Proceedings before Panels) Regulations 2016, a panel may receive oral, documentary or other evidence.

- (2) In addition to the admission of the certificates referred to in regulation 20(3)<sup>2</sup>, (4)<sup>3</sup> and (5)<sup>4</sup> of the Social Care Wales (Proceedings before Panels) Regulations 2016, production of a record of a caution shall be prima facie evidence of the underlying facts of the offence giving rise to the caution.
- (3) A panel may of its own volition, request the parties to provide documentation or other evidence or request any person to give oral evidence which it considers might assist in making a determination.

### **Witnesses**

11. (1) Witnesses shall be sworn or required to affirm.
- (2) A panel may, on the application of the party calling the witness, agree that the witness' personal details shall not be revealed in public.
- (3) Subject to regulation 35(12) of the Social Care Wales (Proceedings before Panels) Regulations 2016 witnesses shall be examined by the party calling them and may then be cross-examined by the opposing party. The party calling the witness may then re-examine the witness.
- (4) Witnesses may then be questioned by a panel, or by the legal adviser, with the leave of the chair.
- (5) The parties may then question the witnesses on matters arising out of the panel's questions. The party calling the witness shall question the witness last.
- (6) Any further questioning of witnesses shall be at the discretion of a panel.
- (7) Witnesses shall not be allowed to attend and observe the proceedings until they have completed giving evidence to a panel and have been formally released by the chair.

### **Special measures**

12. (1) Where an interim orders panel gives a direction under regulation 35(11) of the Social Care Wales (Proceedings before Panels) Regulations 2016, the special measures to be implemented or provided may include, but shall not be limited to:
  - (a) use of video links;
  - (b) use of pre-recorded evidence as the evidence of a witness;
  - (c) use of screens;
  - (d) use of interpreters (including signers and translators) or intermediaries.

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<sup>2</sup> Regulation 20(3) provides that a certificate signed by a competent officer of a court of any jurisdiction that a person has been convicted of a criminal offence, or in Scotland an extract conviction, is conclusive evidence of the offence.

<sup>3</sup> Regulation 20(4) provides that a certificate that a person is included in a barred list (for the purposes of section 117(1)(c) of the Act) issued by the person responsible for maintaining that list, is conclusive evidence of that fact.

<sup>4</sup> Regulation 20(5) provides that a certificate issued by a relevant body (for the purposes of section 117(1)(d) of the Act) that it has determined that a person's fitness to practise is impaired is conclusive evidence of that determination.

### **Adjournment of the hearing**

13. (1) Subject to the requirements of a fair hearing, and after hearing representations from the parties, a panel may, at any stage of the hearing, adjourn the proceedings for the purposes of seeking further information or for any other purpose.
- (2) Where the hearing has been adjourned, the clerk shall, as soon, as practicable, notify the parties of the date fixed for the hearing to be resumed.

### **Voting**

14. (1) Decisions of the panel shall be taken by simple majority.
- (2) The chair of the panel may not exercise a casting vote.
- (3) Any abstention shall be deemed to be a vote in favour of the registered person.

### **Transcript of the hearing**

15. (1) Arrangements shall be made for the recording of a hearing before a panel.
- (2) Upon application, Social Care Wales shall send the registered person a transcript of the recording, of any part of the proceedings at which the registered person was entitled to be present.

### **Proceeding without a hearing**

16. (1) Where the circumstances in regulation 30(1) of the Social Care Wales (Proceedings before Panels) Regulations 2016 apply the following requirements of this rule shall apply and rule 17 shall apply in relation to the procedure to be followed
- (2) The clerk shall send a notice of the meeting to the parties which shall:
  - (a) state the date, time and venue of the meeting;
  - (b) be accompanied by all documents to be considered by the panel, including:
    - (i) the parties' agreement in writing that the application may be determined without a hearing;
    - (ii) a statement of agreed facts in which the registered person agrees that the ground(s) for imposing an interim order exist(s); and
    - (iii) the parties agreement in writing to the interim order which is to be made by the panel, or (in a case where the panel is considering the review of an interim order) to the decision specified in section 147(1)(b) to (e) of the Act which is to be made by the panel, including:
      - (aa) the period for which the interim order is to have effect; and
      - (bb) in the case of an interim conditional registration order, the conditions to be imposed on the registered person's registration with Social Care Wales.
- (3) Subject to paragraph (4) below, where a notice of meeting under paragraph (2) is issued, an application for an interim order shall be heard no earlier than seven days after the date on which the notice of hearing was served upon the registered person.

- (4) The panel may dispense with the notice period referred to in paragraph (2) if the panel is satisfied that the public interest requires a shorter notice period.
- (5) Rule 17 shall also apply where a Notice of Hearing has been issued under Rule 7 and the parties agree in writing that the application may be determined without a hearing and the other requirements of paragraph (2)(b) (i), (ii) and (iii) of this rule are satisfied.
- (6) Where paragraph (5) of this rule applies, the meeting shall take place on the date on which the Interim Orders Panel hearing was originally scheduled to take place.

### **Procedure at a meeting**

17. (1) The interim orders panel shall meet in private and be advised by a legal adviser, but no party shall be present.
- (2) The procedure to be followed will be determined by the chair of the panel.
- (3) After considering the relevant documents and receiving legal advice, the panel shall consider whether it is satisfied that the requirements of rule 16(2)(b) (i) to (iii) (a) and (b) have been met.
- (4) If satisfied as to (3), the panel shall consider whether it is appropriate to make the interim order on one or more of the grounds specified in section 144(5) of the Act, to which the parties agree and, if so, may make the interim order concerned.
- (5) If the panel is not satisfied as to any matter in (3) or (4) above, or if the panel considers that it is in the interests of justice or in the public interest, the panel shall refer the application for consideration at an interim orders panel hearing, in accordance with rule 7.
- (6) The following rules shall apply to interim order panel meetings as they apply to interim orders panel hearings, namely rule 8 (postponement of hearing); rule 13 (adjournment of the hearing) and rule 14 (voting).

### **Notice of the decision**

18. (1) Within seven days of the conclusion of the hearing or meeting, the clerk shall send a notice of the decision to:
  - (a) the registered person;
  - (b) the complainant;
  - (c) the employer(s) if known, (if any);
  - (d) where the registered person is registered in the part of the register for students, the university.
- (2) Social Care Wales may inform:
  - (a) the Welsh Government;
  - (b) a regulatory body of its decision.



- (3) Social Care Wales must inform other relevant Competent Authorities in the EU of the decision as required under Directive 2005/36/EC.
- (4) The notice of the decision to the registered person shall:
  - (a) record any advice given by the legal adviser or the medical adviser;
  - (b) set out the panel's decision as to whether to make an interim order and, if so, the terms and duration of the order;
  - (c) specify the reasons for the panel's decision;
  - (d) where an interim suspension order has been imposed, set out the period of suspension, beginning on the date on which the order is made;
  - (e) where an interim conditional registration order has been imposed, set out the duration of the order and the condition or conditions with which the registered person must comply;
  - (f) inform the registered person of the right of appeal to the tribunal.
- (5) The notice of the decision to any person other than the registered person shall set out the panel's decision as to whether to make an interim order and, if so, the terms and duration of the order.

## PART IV

### FITNESS TO PRACTISE INTERIM ORDERS HEARINGS

#### Notice of the hearing

19. (1) Subject to paragraphs (4) and (5) below, where a case has been referred to the panel for hearing and Social Care Wales wishes to apply for an interim order a notice shall be sent to the registered person which shall:
- (a) inform the registered person of the right to attend the hearing before the panel;
  - (b) inform the registered person of the time and venue for the hearing;
  - (c) provide the registered person with a brief statement of the matters which appear to raise the question whether:
    - (i) the registered person's registration should be suspended or be subject to conditions; and
    - (ii) why such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the registered person;
  - (d) inform the registered person of the rights to give evidence in person, to call witnesses and to cross examine any witnesses called by SCW;
  - (e) inform the registered person of the right to make oral submissions to the panel in person or to be represented by:
    - (i) a solicitor or counsel; or
    - (ii) a representative from any professional organisation; or
    - (iii) if the panel agrees, any other person;
  - (f) inform the registered person that the hearing will take place in private unless the registered person requests that the hearing be held in public and the panel considers that doing so would not be against the public interest;
  - (g) inform the registered person that, subject to paragraph any application to be represented by a person other than those listed in paragraph (e) (i) or (ii) above, must be sent to the clerk no later than three days in advance of a hearing setting out the name of the proposed representative and confirming that the proposed representative will not be called as a witness;
  - (h) inform the registered person that a person representing or advising the registered person may not give evidence;
  - (i) inform the registered person that, subject to paragraph (3), if they do not wish to attend the hearing, they may submit written representations not later than three days before the date of the hearing for consideration by the panel;
  - (j) inform the registered person of the possible outcomes open to the panel;
  - (k) request confirmation as to whether the registered person intends to:
    - (i) attend the hearing;
    - (ii) be represented at the hearing;
    - (iii) submit written representations;
    - (iv) agree to the proceedings being determined without a hearing if the circumstances in regulation 18(1) of the Social Care Wales (Proceedings before Panels) Regulations 2016 apply;
  - (l) enclose copies of any documents to be put before the panel, including a copy of these Rules.

- (2) Subject to paragraphs (3), (4) and (5) below where a notice of hearing under paragraph (1) is issued, an application for an interim order shall be heard no earlier than seven days after the date on which the notice of hearing was served upon the registered person.
- (3) The panel may dispense with the requirements of paragraph (1)(g) or (i) or the notice period referred to in paragraph (2) if the panel is satisfied that the public interest or the interests of justice require a shorter period.
- (4) Notwithstanding paragraph (3) above, subject to paragraph (5), the panel shall not impose an interim order on a registered person's registration without first giving the registered person notice of such intention as is reasonable in all the circumstances of the case.
- (5) Where a fitness to practise hearing has commenced but the panel has not yet made a final determination in accordance with sections 135 to 138 of the Act, the panel may make or review an interim order pending a final determination without notice having been given notice in accordance with this rule.

#### **Procedure at a fitness to practise panel interim orders hearing**

20. (1) If the registered person is not present and not represented at the hearing, the panel shall:
  - (a) require evidence that notice of the hearing has been sent to the registered person in accordance with rule 19 or of the efforts made to give notice to the registered person; and
  - (b) enquire whether any reasons for the registered person's non-attendance have been communicated to Social Care Wales.
- (2) Where paragraph (1) applies, the panel shall determine whether to exercise the discretion under regulation 25(4) of the Social Care Wales (Proceedings before Panels) Regulations 2016 to proceed with the hearing in the absence of the registered person or adjourn and shall give reasons for its decision.
- (3) The following procedure shall be followed at a fitness to practise panel interim orders hearing:
  - (a) the presenter shall set out the reasons why the registered person's registration should be made subject to an interim order, together with any evidence in support;
  - (b) the registered person may set out the reasons why such application should not be granted by the panel, together with any evidence in support;
  - (c) the panel shall obtain advice from the legal adviser;
  - (d) the panel shall obtain advice from the medical adviser (if present);
  - (e) the panel shall deliberate *in camera*;
  - (f) where the panel determines that an interim conditional registration order should be imposed, the panel shall announce the condition(s) to be included in that order and invite the registered person or the registered person's representative (when present) and the presenter to comment on the wording of the proposed condition(s) and the registered person's ability to comply, prior to the panel finalising the wording of the condition(s);

- (g) the panel shall determine the application and announce its decision, and the reasons for that decision, in the presence of the parties;
  - (h) where the proceedings are held in public, the panel shall announce its decision, and the reasons for that decision, in public.
- (4) The following rules shall apply to fitness to practise panel interim orders hearings as they apply to interim orders panel hearings, namely rule 6 (case-management); rule 8 (postponement of hearing); rule 9 (procedure); rule 10 (evidence); rule 11 (witnesses); rule 12 (special measures); rule 13 (adjournment of the hearing); rule 14 (voting); rule 15 (transcript of hearing); and rule 18 (notice of decision).

### **Proceeding without a hearing**

21. (1) Where the circumstances in regulation 18(1) of the Social Care Wales (Proceedings before Panels) Regulations 2016 apply the following requirements of this rule shall apply and rule 22 shall apply in relation to the procedure to be followed.
- (2) The clerk shall send a notice of the meeting to the parties which shall:
- (a) state the date, time and venue of the meeting;
  - (b) be accompanied by all documents to be considered by the panel, including
    - (i) the parties' agreement in writing that the application may be determined without a hearing;
    - (ii) a statement of agreed facts in which the registered person agrees that the ground(s) for imposing an interim order exist(s); and
    - (iii) the parties agreement in writing to the interim order which is to be made by the panel, or (in a case where the panel is considering the review of an interim order) to the decision specified in section 147(1)(b) to (e) of the Act which is to be made by the panel, including:
      - (aa) the period for which the interim order is to have effect; and
      - (bb) in the case of an interim conditional registration order, the conditions to be imposed on the registered person's registration with Social Care Wales.
- (3) Subject to paragraph (4) below, where a notice of hearing under paragraph (2) is issued, an application for an interim order shall be heard no earlier than seven days after the date on which the notice of hearing was served upon the registered person.
- (4) The panel may dispense with the notice period referred to in paragraph (2) if the panel is satisfied that the public interest requires a shorter notice period.
- (5) Rule 22 shall also apply where a Notice of Hearing has been issued under Rule 19 and the parties agree in writing that the application may be determined without a hearing and the other requirements of paragraph (2)(b) (i), (ii) and (iii) of this rule are satisfied.
- (6) Where paragraph (5) of this rule applies, the meeting shall take place on the date on which the Fitness to Practise Interim Orders Panel hearing was originally scheduled to take place.

### **Procedure at a meeting**

22. (1) The fitness to practise panel shall meet in private and be advised by a legal adviser, but no party shall be present.
- (2) The procedure to be followed will be determined by the chair of the panel.
- (3) After considering the relevant documents and receiving legal advice, the panel shall consider whether it is satisfied that the requirements of rule 21(2)(b)(i) to (iii) (aa) and (bb) have been met.
- (4) If satisfied as to (3), the panel shall consider whether it is appropriate to make the interim order on one or more of the grounds specified in section 144(5) of the Act, to which the parties agree and, if so, may make the interim order concerned.
- (5) If the panel is not satisfied as to any matter in (3) or (4) above, or if the panel considers that it is in the interests of justice or in the public interest, the panel may refer the application for consideration at a fitness to practise panel interim orders panel hearing, in accordance with rules 19 and 20.
- (6) The following rules shall apply to fitness to practise panel interim orders meetings as they apply to interim orders panel hearings, namely rule 8 (postponement of hearing); rule 13 (adjournment of the hearing); rule 14 (voting); and rule 18 (notice of decision).

## **PART V**

### **REVIEW OF INTERIM ORDERS**

#### **Notice of the hearing**

23. (1) Where a review of an interim order is required under section 146 of the Act, a notice of hearing shall be sent to the registered person which shall specify a date for the hearing to take place according to the timescales specified in sections 146 (4), (6), (7) or (8) of the Act.
- (2) The notice under paragraph (1) shall:
- (a) inform the registered person of the right to attend the hearing;
  - (b) inform the registered person of the time and venue for the hearing;
  - (c) inform the registered person that on the completion of the review, the panel may make one of the decisions specified in section 147(1)(a) to (e) of the Act;
  - (d) inform the registered person of the rights to give evidence in person, to call witnesses and to cross examine any witnesses called by Social Care Wales;
  - (e) inform the registered person of the right to make oral submissions to the panel in person or to be represented by:
    - (i) a solicitor or counsel; or
    - (ii) a representative from any professional organisation; or
    - (iii) if the interim orders panel agrees, any other person;

- (f) inform the registered person that the hearing will take place in private unless the registered person requests that the hearing be held in public and the panel considers that doing so would not be against the public interest;
- (g) inform the registered person that, subject to paragraph (3), any application to be represented by a person other than those listed in paragraph (e) (i) or (ii) above, must be sent to the clerk no later than three days in advance of a hearing setting out the name of the proposed representative and confirming that the proposed representative will not be called as a witness;
- (h) inform the registered person that a person representing or advising the registered person may not give evidence;
- (i) inform the registered person that , subject to paragraph (3), if they do not wish to attend the hearing, they may submit written representations not later than three days before the date of the hearing for consideration by the panel;
- (j) request confirmation as to whether the registered person intends to:
  - (i) attend the hearing;
  - (ii) be represented at the hearing;
  - (iii) submit written representations;
  - (iv) agree to the proceedings being determined without a hearing if the circumstances in regulation 18(1) or 30(1) of the Social Care Wales (Proceedings before Panels) Regulations 2016 apply;
- (k) enclose copies of any documents to be put before the panel, including a copy of these Rules.

- (3) The panel may dispense with the requirements of paragraph (1)(g) or (i) if the panel is satisfied that the public interest or the interests of justice require a shorter period.

#### **Procedure on review of an interim order**

24. (1) The following rules shall apply to proceedings to review an interim order as they apply to either interim orders panel proceedings or fitness to practise panel interim orders proceedings, as the case may be, namely: rule 6 (case management); rule 8 (postponement of the hearing); rules 9 and 20 (procedure at a hearing ); rule 10 (evidence), rule 11 (witnesses); rule 12 (special measures); rule 13 (adjournment of the hearing); rule 14 (voting); rule 15 (transcript of the hearing); rules 16 and 21 (proceeding without a hearing); rules 17 and 22 (procedure at a meeting) and rule 18 (notice of decision).

**Signed on behalf of Social Care Wales**

A handwritten signature in black ink, appearing to read 'Mick Giannasi'. The signature is written in a cursive style with some loops and a long horizontal stroke at the end.

**Mick Giannasi**

**Chair Social Care Wales**

**24/02/20**