

Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

PART 3

SOCIAL CARE WALES

Continuation of the Care Council for Wales and its renaming

67 Social Care Wales

- (1) Section 54 of the Care Standards Act 2000 (c.14) is repealed.
- (2) The body corporate called the Care Council for Wales which was established by that section is to continue in existence.
- (3) But it is renamed, and is to be known as, Social Care Wales (referred to in this Act as “SCW”).
- (4) Schedule 2 makes further provision about SCW.

Commencement Information

- I1** [S. 67](#) in force at 11.7.2016 for specified purposes by [S.I. 2016/713](#), [art. 2](#)
- I2** [S. 67](#) in force at 3.4.2017 in so far as not already in force by [S.I. 2017/309](#), [art. 2\(b\)](#) (with [arts. 3, 4](#), [Sch.](#))

SCW's objectives

68 SCW's objectives

- (1) SCW's main objective in carrying out its functions is to protect, promote and maintain the safety and well-being of the public in Wales.

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- (2) In pursuing that objective SCW must exercise its functions with a view to promoting and maintaining—
- (a) high standards in the provision of care and support services,
 - (b) high standards of conduct and practice among social care workers,
 - (c) high standards in the training of social care workers, and
 - (d) public confidence in social care workers.
- (3) See section 69 for the meaning of “care and support services” and section 79 for the meaning of “social care worker”.

Commencement Information

- I3** S. 68 in force at 11.7.2016 for specified purposes by S.I. 2016/713, art. 2
- I4** S. 68 in force at 3.4.2017 in so far as not already in force by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

Advice and assistance

69 Advice and assistance in relation to care and support services

- (1) SCW may give any person providing a care and support service advice or other assistance (including grants) for the purpose of encouraging improvement in the provision of that service.
- (2) SCW may attach such conditions to a grant given under subsection (1) as it thinks appropriate.
- (3) “Care and support service” means—
- (a) a regulated service, or
 - (b) any other service in Wales which involves the provision of care and support by social care workers.
- (4) See section 2 for the meaning of “regulated service” and section 3 for the meaning of “care and support”.

Commencement Information

- I5** S. 69 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

70 Studies as to economy, efficiency etc.

SCW may promote or undertake comparative or other studies designed to enable it to make recommendations under section 69 for improving economy, efficiency and effectiveness in the provision of a care and support service.

Commencement Information

- I6** S. 70 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

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Engagement with the public etc.

71 Engagement with the public and social care workers

- (1) SCW must—
 - (a) make information about SCW and the exercise of its functions available to—
 - (i) the public, and
 - (ii) social care workers;
 - (b) prepare and publish a statement of its policy with respect to involving the public and social care workers in the exercise of those functions (whether by consultation or other means).
- (2) SCW—
 - (a) may revise its statement of policy and must publish the revised statement, or
 - (b) may publish a new statement of policy.
- (3) SCW must have regard to the most recent policy statement published under this section when exercising its functions.

Commencement Information

I7 S. 71 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

Policy with respect to bringing criminal proceedings

72 Statement of policy with respect to bringing criminal proceedings

- (1) SCW must prepare and publish a statement of its policy with respect to the bringing of criminal proceedings by it.
- (2) SCW may—
 - (a) revise its statement of policy and publish the revised statement, or
 - (b) publish a new statement of policy.
- (3) SCW must have regard to the most recent policy statement published under this section when exercising its functions.

Commencement Information

I8 S. 72 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

Rules made by SCW under this Act

73 Rules: general

- (1) Any power conferred on SCW by or under this Act to make rules must be exercised by an instrument in writing.
- (2) An instrument containing rules must specify the provision under which the rules are made.

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- (3) To the extent that an instrument containing rules does not comply with subsection (2) it is void.
- (4) Any power of SCW to make rules conferred by or under this Act may be exercised—
 - (a) so as to make different provision for different purposes;
 - (b) so as to make incidental, supplemental, consequential and transitional provision.
- (5) SCW must—
 - (a) publish rules made by it, and
 - (b) ensure the rules are publicly available until such time as they cease to have effect.
- (6) SCW may charge a fee for providing a person with a copy of rules made by it.

Commencement Information

- I9** S. 73(1)(2) in force at 11.7.2016 for specified purposes by [S.I. 2016/713, art. 2](#)
- I10** S. 73(1)(2) in force at 3.4.2017 in so far as not already in force by [S.I. 2017/309, art. 2\(b\)](#) (with arts. 3, 4, Sch.)
- I11** S. 73(3)-(6) in force at 3.4.2017 by [S.I. 2017/309, art. 2\(b\)](#) (with arts. 3, 4, Sch.)

74 Rules: fees

- (1) SCW may by rules make provision for the payment of fees to SCW in connection with the discharge of functions by—
 - (a) SCW;
 - (b) the registrar (see section 81).
- (2) In particular, the rules may make provision for the payment of fees in connection with—
 - (a) the provision of advice or other assistance under section 69;
 - (b) registration in the register (see Part 4);
 - (c) the approval of courses under section 114 (approval of courses for persons who are or wish to become social care workers);
 - (d) the provision of training under section 116 (training provided or secured by SCW);
 - (e) the provision of copies of codes of practice or copies of, or extracts from, the register.
- (3) But the rules may not make provision for the payment of fees in connection with registration in the visiting European part of the register.

Commencement Information

- I12** S. 74 in force at 3.4.2017 by [S.I. 2017/309, art. 2\(b\)](#) (with arts. 3, 4, Sch.)

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Consultation before making rules etc.

75 Consultation before making rules etc.

- (1) SCW must comply with the requirements of subsection (2)—
 - (a) before making any rules under this Act;
 - (b) before publishing a code of practice under section 112 (codes setting standards of conduct expected of social care workers and their employers);
 - (c) before publishing guidance under section 162 (guidance for fitness to practise and interim orders panels in respect of proceedings under Part 6),unless subsection (3) applies.
- (2) Before making the rules or publishing the code or guidance SCW must—
 - (a) publish a draft of the proposed rules, code or guidance accompanied by—
 - (i) an explanation of the purpose of the proposed rules, code or guidance and a summary of the intended effect of the proposed rules, code or guidance;
 - (ii) a notice specifying the period within which representations may be made to SCW about the proposal, and
 - (b) take reasonable steps to give notice of the proposal and the period for making representations to—
 - (i) social care workers SCW thinks may be affected by the proposal,
 - (ii) the Welsh Ministers, and
 - (iii) such other persons SCW thinks appropriate.
- (3) This subsection applies if SCW—
 - (a) is satisfied that the nature of the proposed rules, code or guidance is such that consultation would be inappropriate or disproportionate, and
 - (b) has obtained the agreement of the Welsh Ministers to proceed without consultation.
- (4) Section 184 (service of documents etc.) does not apply to anything done by SCW under subsection (2).

Commencement Information

I13 S. 75 in force at 11.7.2016 for specified purposes by S.I. 2016/713, art. 2

I14 S. 75 in force at 3.4.2017 in so far as not already in force by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

Guidance and directions

76 Guidance

- (1) In exercising its functions SCW must have regard to any guidance given to it by the Welsh Ministers.
- (2) The Welsh Ministers must publish any guidance they give to SCW.

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Commencement Information

I15 S. 76 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

77 Directions

- (1) In exercising its functions SCW must comply with any directions given to it by the Welsh Ministers.
- (2) A direction—
 - (a) must be in writing;
 - (b) may be varied or revoked by a subsequent direction.

Commencement Information

I16 S. 77 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

Default powers of the Welsh Ministers

78 Default powers of the Welsh Ministers

- (1) The powers conferred by this section are exercisable by the Welsh Ministers if they are satisfied that SCW—
 - (a) has without reasonable excuse failed to discharge any of its functions, or
 - (b) in discharging any of its functions, has without reasonable excuse failed to comply with any directions given by the Welsh Ministers under section 77 in relation to those functions.
- (2) The Welsh Ministers may—
 - (a) publish a statement declaring SCW to be in default, and
 - (b) direct SCW to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction.
- (3) If SCW fails to comply with a direction given under subsection (2)(b), the Welsh Ministers may—
 - (a) discharge the functions to which the direction relates themselves, or
 - (b) make arrangements for any other person to discharge those functions on their behalf.
- (4) A direction under subsection (2)(b)—
 - (a) must be in writing;
 - (b) may be varied or revoked by a subsequent direction.

Commencement Information

I17 S. 78 in force at 3.4.2017 by S.I. 2017/309, art. 2(b) (with arts. 3, 4, Sch.)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 80(1)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 80(2)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 80(3)(d) omitted by [S.I. 2019/761 reg. 5](#)
- s. 84(aa)(ii) omitted by [S.I. 2019/761 reg. 6](#)
- s. 85A omitted by [S.I. 2019/761 reg. 8](#)
- s. 90A omitted by [S.I. 2019/761 reg. 10](#)
- Sch. 1 para. 7(4A) inserted by [S.I. 2019/761 reg. 14\(1\)\(b\)](#)
- Sch. 1 para. 7(4)(b)(c) substituted for Sch. 1 para. 7(4)(b) by [S.I. 2019/761 reg. 14\(1\)\(a\)\(ii\)](#)
- Sch. 1 para. 7(4A) words omitted by [S.I. 2019/761 reg. 14\(2\)](#)