



# Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016

2016 dccc 2

# Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

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Lluniwyd Nodiadau Esboniadol yn gymorth i ddeall y Deddf hon ac maent ar gael ar wahân.

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately.

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Cymdeithasol (Cymru) 2016

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# Regulation and Inspection of Social Care (Wales) Act 2016

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# Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016

Deddf Cynulliad Cenedlaethol Cymru i wneud darpariaeth ar gyfer cofrestru a rheoleiddio personau sy'n darparu gwasanaethau cartrefi gofal, gwasanaethau llety diogel, gwasanaethau canolfannau preswyl i deuluoedd, gwasanaethau mabwysiadu, gwasanaethau maethu, gwasanaethau lleoli oedolion, gwasanaethau eirioli a gwasanaethau cymorth cartref; sy'n diwygio Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 mewn cysylltiad â rheoleiddio swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol; ar gyfer ailenwi Cyngor Gofal Cymru yn Ofal Cymdeithasol Cymru; i Ofal Cymdeithasol Cymru ddarparu cyngor a chynhorthwy arall i bersonau sy'n darparu gwasanaethau sy'n ymwneud â gofal a chymorth; ar gyfer cofrestru, rheoleiddio a hyfforddi gweithwyr gofal cymdeithasol; ac at ddibenion cysylltiedig. [18 Ionawr 2016]

**Gan ei fod wedi ei basio gan Gynulliad Cenedlaethol Cymru ac wedi derbyn cydsyniad Ei Mawrhydi, deddfir fel a ganlyn:**

## **RHAN 1**

### **RHEOLEIDDIO GWASANAETHAU GOFAL CYMDEITHASOL**

#### **PENNOD 1**

#### **CYFLWYNIAD**

#### **1 Trosolwg o Ran 1**

Yn y Rhan hon –

- (a) mae'r Bennod hon yn diffinio rhai termau allweddol gan gynnwys yr hyn a olygir wrth "gwasanaeth rheoleiddiedig" yn y Ddeddf hon ac yn nodi amcanion cyffredinol Gweinidogion Cymru mewn perthynas â rheoleiddio gwasanaethau o'r fath;



# Regulation and Inspection of Social Care (Wales) Act 2016

An Act of the National Assembly for Wales to make provision for the registration and regulation of persons providing care home services, secure accommodation services, residential family centre services, adoption services, fostering services, adult placement services, advocacy services and domiciliary support services; amending the Social Services and Well-being (Wales) Act 2014 in connection with the regulation of the social services functions of local authorities; for the renaming of the Care Council for Wales as Social Care Wales; for Social Care Wales to provide advice and other assistance to persons providing services involving care and support; for the registration, regulation and training of social care workers; and for connected purposes.

[18 January 2016]

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

## PART 1

### REGULATION OF SOCIAL CARE SERVICES

#### CHAPTER 1

##### INTRODUCTION

#### 1 Overview of Part 1

In this Part—

- (a) this Chapter defines some key terms including what is meant by a “regulated service” in this Act, and sets out the general objectives of the Welsh Ministers in relation to the regulation of such services;

- (b) mae Pennod 2 yn nodi swyddogaethau Gweinidogion Cymru mewn perthynas â chofrestru personau sy'n darparu gwasanaethau rheoleiddiedig, gan gynnwys darpariaeth ynghylch amrywio a chanslo cofrestriadau a darpariaeth ynghylch hysbysiadau ac apelau;
- (c) mae Pennod 3 yn nodi pwerau Gweinidogion Cymru i'w gwneud yn ofynnol i wybodaeth gael ei darparu a'u pwerau i gynnal arolygiadau;
- (d) mae Pennod 4 yn rhoi rhai swyddogaethau cyffredinol i Weinidogion Cymru mewn perthynas â gwasanaethau rheoleiddiedig;
- (e) mae Pennod 5 yn gwneud darpariaeth ar gyfer troseddau a chosbau;
- (f) mae Pennod 6 yn diwygio Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4) i wneud darpariaeth mewn cysylltiad â swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol (gweler Atodlen 2 i Ddeddf 2014 am hyn) gan gynnwys, yn benodol, ddarpariaeth ynghylch—
  - (i) adroddiadau blynyddol gan awdurdodau lleol;
  - (ii) pwerau i Weinidogion Cymru i gynnal adolygiadau o'r ffordd y caiff y swyddogaethau hynny eu harfer;
  - (iii) pwerau sy'n caniatáu ar gyfer arolygu mangreuedd a ddefnyddir mewn cysylltiad ag arfer y swyddogaethau hynny;
  - (iv) pwerau i Weinidogion Cymru i'w gwneud yn ofynnol i wybodaeth sy'n ymwneud ag arfer y swyddogaethau hynny gael ei darparu;
  - (v) troseddau mewn cysylltiad ag arolygiadau neu ofynion i ddarparu gwybodaeth;
  - (vi) pwerau i Weinidogion Cymru i reoleiddio'r arferiad o'r swyddogaethau awdurdod lleol hynny sy'n ymwneud â phlant sy'n derbyn gofal a phlant sy'n cael eu lletya;
- (g) mae Pennod 7 yn gwneud darpariaeth i Weinidogion Cymru fonitro cynaliadwyedd ariannol darparwyr gwasanaethau penodol a llunio a chyhoeddi adroddiadau ynghylch sefydlogrwydd y farchnad ar gyfer gwasanaethau gofal cymdeithasol yng Nghymru.

## 2 Ystyr "gwasanaeth rheoleiddiedig"

- (1) Yn y Ddeddf hon, ystyr "gwasanaeth rheoleiddiedig" yw—
  - (a) gwasanaeth cartref gofal,
  - (b) gwasanaeth llety diogel,
  - (c) gwasanaeth canolfan breswyl i deuluoedd,
  - (d) gwasanaeth mabwysiadu,
  - (e) gwasanaeth maethu,
  - (f) gwasanaeth lleoli oedolion,
  - (g) gwasanaeth eirioli,
  - (h) gwasanaeth cymorth cartref, ac

- (b) Chapter 2 sets out the Welsh Ministers' functions in relation to registering persons who provide regulated services, including provision about varying and cancelling registrations and provision about notifications and appeals;
- (c) Chapter 3 sets out the Welsh Ministers' powers to require information and to carry out inspections;
- (d) Chapter 4 confers some general functions on the Welsh Ministers in relation to regulated services;
- (e) Chapter 5 makes provision for offences and penalties;
- (f) Chapter 6 amends the Social Services and Well-being (Wales) Act 2014 (anaw 4) to make provision in respect of the social services functions of local authorities (on which, see Schedule 2 to the 2014 Act) including, in particular, provision about—
  - (i) annual reports by local authorities;
  - (ii) powers for the Welsh Ministers to conduct reviews of the way in which those functions are exercised;
  - (iii) powers allowing for the inspection of premises used in connection with the exercise of those functions;
  - (iv) powers for the Welsh Ministers to require information relating to the exercise of those functions;
  - (v) offences in connection with inspections or requirements to provide information;
  - (vi) powers for the Welsh Ministers to regulate the exercise of those local authority functions which relate to looked after and accommodated children;
- (g) Chapter 7 makes provision for the Welsh Ministers to monitor the financial sustainability of certain service providers and to prepare and publish reports about the stability of the market for social care services in Wales.

## **2 Meaning of "regulated service"**

- (1) In this Act, "regulated service" means—
  - (a) a care home service,
  - (b) a secure accommodation service,
  - (c) a residential family centre service,
  - (d) an adoption service,
  - (e) a fostering service,
  - (f) an adult placement service,
  - (g) an advocacy service,
  - (h) a domiciliary support service, and



- (i) unrhyw wasanaeth arall sy'n cynnwys y ddarpariaeth o ofal a chymorth yng Nghymru a ragnodir.
- (2) Mae Atodlen 1 yn gwneud darpariaeth bellach ynghylch ystyr termau a ddefnyddir yn is-adran (1).
- (3) Caiff Gweinidogion Cymru drwy reoliadau ragnodi'r pethau nad ydynt, er gwaethaf Atodlen 1, i'w trin fel gwasanaethau rheoleiddiedig at ddibenion y Ddeddf hon.
- (4) Cyn gwneud rheoliadau o dan yr adran hon rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.

### 3 **Termau allweddol eraill**

- (1) Yn y Ddeddf hon –
  - (a) ystyr “gofal” yw gofal sy'n ymwneud ag –
    - (i) tasgau ac anghenion corfforol beunyddiol y person y gofelir amdano (er enghraifft, bwyta ac ymolchi), a
    - (ii) y prosesau meddyliol sy'n ymwneud â'r tasgau a'r anghenion hynny (er enghraifft, y broses feddyliol o gofio bwyta ac ymolchi);
  - (b) ystyr “swyddogaethau rheoleiddiol” yw swyddogaethau Gweinidogion Cymru o dan –
    - (i) y Rhan hon,
    - (ii) adrannau 94A a 149A i 161B o Ddeddf 2014, a
    - (iii) adran 15 o Ddeddf Mabwysiadu a Phlant 2002 (p.38) (arolygu mangreoedd sy'n ymwneud â gwasanaethau mabwysiadu),

ond nid yw unrhyw swyddogaeth o wneud, cadarnhau neu gymeradwyo is-ddeddfwriaeth (fel y'i diffinnir gan adran 158(1) o Ddeddf Llywodraeth Cymru 2006 (p.32)) yn swyddogaeth reoleiddiol;
  - (c) ystyr “darparwr gwasanaeth” yw person sydd wedi ei gofrestru o dan adran 7 i ddarparu gwasanaeth rheoleiddiedig;
  - (d) ystyr “cymorth” yw cwnsela, cyngor neu help arall, a ddarperir fel rhan o gynllun a luniwyd ar gyfer y person sy'n cael cymorth gan –
    - (i) ddarparwr gwasanaeth neu berson arall sy'n darparu gofal a chymorth i'r person, neu
    - (ii) awdurdod lleol (hyd yn oed os nad yw'r awdurdod yn darparu gofal a chymorth i'r person).
- (2) Mae cyfeiriadau yn y Ddeddf hon at “gofal a chymorth” i'w darllen fel cyfeiriadau at –
  - (a) gofal,
  - (b) cymorth, neu
  - (c) gofal a chymorth.
- (3) Caiff Gweinidogion Cymru drwy reoliadau ragnodi pethau nad ydynt, er gwaethaf is-adran (1)(a) a (d), i'w trin fel gofal a chymorth at ddibenion y Ddeddf hon.

- (i) any other service comprising the provision of care and support in Wales as may be prescribed.
- (2) Schedule 1 makes further provision about the meaning of terms used in subsection (1).
- (3) The Welsh Ministers may by regulations prescribe things which, despite Schedule 1, are not to be treated as regulated services for the purposes of this Act.
- (4) Before making regulations under this section the Welsh Ministers must consult such persons as they think appropriate.

### 3 Other key terms

- (1) In this Act—
  - (a) “care” means care relating to—
    - (i) the day to day physical tasks and needs of the person cared for (for example, eating and washing), and
    - (ii) the mental processes related to those tasks and needs (for example, the mental process of remembering to eat and wash);
  - (b) “regulatory functions” means the Welsh Ministers’ functions under—
    - (i) this Part,
    - (ii) sections 94A and 149A to 161B of the 2014 Act, and
    - (iii) section 15 of the Adoption and Children Act 2002 (c.38) (inspection of premises relating to adoption services),but any function of making, confirming or approving subordinate legislation (as defined by section 158(1) of the Government of Wales Act 2006 (c.32)) is not a regulatory function;
  - (c) “service provider” means a person registered under section 7 to provide a regulated service;
  - (d) “support” means counselling, advice or other help, provided as part of a plan prepared for the person receiving support by—
    - (i) a service provider or other person providing care and support to the person, or
    - (ii) a local authority (even if the authority does not provide care and support to the person).
- (2) References in this Act to “care and support” are to be read as references to—
  - (a) care,
  - (b) support, or
  - (c) both care and support.
- (3) The Welsh Ministers may by regulations prescribe things which, despite subsection (1)(a) and (d), are not to be treated as care and support for the purposes of this Act.

**4 Amcanion cyffredinol**

Amcanion cyffredinol Gweinidogion Cymru wrth arfer eu swyddogaethau o dan y Rhan hon yw –

- (a) diogelu, hybu a chynnal diogelwch a llesiant pobl sy'n defnyddio gwasanaethau rheoleiddiedig, a
- (b) hybu a chynnal safonau uchel wrth ddarparu gwasanaethau rheoleiddiedig.

**PENNOD 2****COFRESTRU ETC. DARPARWYR GWASANAETHAU***Gofyniad i gofrestru***5 Gofyniad i gofrestru**

Mae'n drosedd i berson ddarparu gwasanaeth rheoleiddiedig heb fod wedi ei gofrestru yn unol â'r Bennod hon mewn cysylltiad â'r gwasanaeth hwnnw.

*Ymgeisio, amrywio a chanslo cofrestriad***6 Cais i gofrestru fel darparwr gwasanaeth**

- (1) Rhaid i berson sy'n dymuno darparu gwasanaeth rheoleiddiedig wneud cais ar gyfer cofrestru i Weinidogion Cymru –
  - (a) sy'n pennu'r gwasanaeth rheoleiddiedig y mae'r person yn dymuno ei ddarparu,
  - (b) sy'n pennu'r manau y mae'r gwasanaeth i'w ddarparu ynddynt, ohonynt neu mewn perthynas â hwy,
  - (c) sy'n dynodi unigolyn fel yr unigolyn cyfrifol mewn cysylltiad â phob un o'r manau hynny ac sy'n datgan enw a chyfeiriad pob unigolyn o'r fath (mae adran 21 yn nodi pwy y caniateir iddo gael ei ddynodi'n unigolyn cyfrifol), a
  - (d) sy'n cynnwys unrhyw wybodaeth arall a ragnodir.
- (2) Rhaid i gais fod ar y ffurf ragnodedig.
- (3) Caiff person sy'n dymuno cael ei gofrestru fel darparwr gwasanaeth mewn cysylltiad â dau neu ragor o wasanaethau rheoleiddiedig wneud un cais mewn cysylltiad â hwy.

**7 Caniatáu neu wrthod cofrestriad fel darparwr gwasanaeth**

- (1) Rhaid i Weinidogion Cymru ganiatáu cais o dan adran 6 os ydynt wedi eu bodloni –
  - (a) bod y cais –
    - (i) yn cynnwys popeth sy'n ofynnol gan neu o dan is-adran (1) o'r adran honno,
    - (ii) yn achos cais sy'n ymwneud â gwasanaeth cymorth cartref, yn cynnwys yr ymgymeriad yn adran 8, a
    - (iii) yn bodloni'r gofynion a ragnodir o dan adran 6(2);

#### **4 General objectives**

The general objectives of the Welsh Ministers in exercising their functions under this Part are—

- (a) to protect, promote and maintain the safety and well-being of people who use regulated services, and
- (b) to promote and maintain high standards in the provision of regulated services.

### **CHAPTER 2**

#### **REGISTRATION ETC. OF SERVICE PROVIDERS**

##### *Requirement to register*

#### **5 Requirement to register**

It is an offence for a person to provide a regulated service without being registered in accordance with this Chapter in respect of that service.

##### *Application for, variation of and cancellation of registration*

#### **6 Application for registration as a service provider**

- (1) A person who wants to provide a regulated service must make an application for registration to the Welsh Ministers—
  - (a) specifying the regulated service that the person wants to provide,
  - (b) specifying the places at, from or in relation to which the service is to be provided,
  - (c) designating an individual as the responsible individual in respect of each place and stating each such individual's name and address (section 21 sets out who may be designated as a responsible individual), and
  - (d) including such other information as may be prescribed.
- (2) An application must be in the prescribed form.
- (3) A person who wants to be registered as a service provider in respect of two or more regulated services may make a single application in respect of them.

#### **7 Grant or refusal of registration as a service provider**

- (1) The Welsh Ministers must grant an application under section 6 if satisfied that—
  - (a) the application—
    - (i) contains everything required by or under subsection (1) of that section,
    - (ii) in the case of an application relating to a domiciliary support service, contains the undertaking mentioned in section 8, and
    - (iii) meets the requirements prescribed under section 6(2);

- (b) bod yr ymgeisydd yn berson addas a phriodol i fod yn ddarparwr gwasanaeth (gweler adran 9);
- (c) o ran pob unigolyn sydd i'w ddynodi'n unigolyn cyfrifol –
  - (i) ei fod yn gymwys i fod yn unigolyn cyfrifol yn unol ag adran 21(2),
  - (ii) ei fod yn berson addas a phriodol i fod yn unigolyn cyfrifol (gweler adran 9), a
  - (iii) y bydd yn cydymffurfio ag unrhyw ofynion mewn rheoliadau o dan adran 28 (i'r graddau y bônt yn gymwys);
- (d) y bydd cydymffurfedd â gofynion –
  - (i) unrhyw reoliadau o dan adran 27 (gan gynnwys unrhyw ofynion o ran safon y gofal a'r cymorth y mae rhaid eu darparu), a
  - (ii) unrhyw ddeddfiad arall yr ymddengys i Weinidogion Cymru ei fod yn berthnasol,

(i'r graddau y bônt yn gymwys) mewn perthynas â darparu'r gwasanaeth rheoleiddiedig.
- (2) Mewn unrhyw achos arall rhaid i Weinidogion Cymru wrthod cais.
- (3) O ran caniatáu cais –
  - (a) rhaid iddo fod yn ddarostyngedig i amod sy'n pennu –
    - (i) y manau y ma'e'r darparwr gwasanaeth i ddarparu gwasanaeth rheoleiddiedig ynddynt, ohonynt neu mewn perthynas â hwy, a
    - (ii) yr unigolyn sydd wedi ei ddynodi fel yr unigolyn cyfrifol ar gyfer pob un o'r manau hynny, a
  - (b) caiff fod yn ddarostyngedig i unrhyw amodau pellach sy'n briodol ym marn Gweinidogion Cymru.
- (4) Pan fo person wedi gwneud un cais mewn cysylltiad â dau neu ragor o wasanaethau rheoleiddiedig caiff Gweinidogion Cymru ganiatáu neu wrthod y cais ar wahân mewn cysylltiad â phob gwasanaeth.
- (5) Ond dim ond os yw gofynion adrannau 18 i 20 wedi eu bodloni (i'r graddau y bônt yn gymwys) y mae caniatâd i gais yn cymryd effaith.

## 8 Hyd ymweliadau cymorth cartref

- (1) Yr ymgymeriad a grybwyllir yn adran 7(1)(a)(ii) ac 11(3)(a)(ii) yw na fydd gwasanaeth cymorth cartref yn cael ei ddarparu drwy ymweliad sy'n fyrrach na 30 munud oni bai bod naill ai amod A, B neu C wedi ei fodloni.
- (2) Mae Amod A yn gymwys pan –
  - (a) fo'n ofynnol i awdurdod lleol –
    - (i) yn rhinwedd adran 35 neu 37 o Ddeddf 2014, ddiwallu anghenion y person yr ymwelir ag ef, neu
    - (ii) yn rhinwedd adran 40 neu 42 o'r Ddeddf honno, ddiwallu anghenion gofalwr y person hwnnw, a

- (b) the applicant is a fit and proper person to be a service provider (see section 9);
  - (c) each individual to be designated as a responsible individual –
    - (i) is eligible to be a responsible individual in accordance with section 21(2),
    - (ii) is a fit and proper person to be a responsible individual (see section 9), and
    - (iii) will comply with any requirements of regulations under section 28 (so far as applicable);
  - (d) the requirements of –
    - (i) any regulations under section 27 (including any requirements as to the standard of care and support that must be provided), and
    - (ii) any other enactment which appears to the Welsh Ministers to be relevant, will be complied with (so far as applicable) in relation to the provision of the regulated service.
- (2) In any other case the Welsh Ministers must refuse an application.
- (3) The grant of an application –
- (a) must be subject to a condition specifying –
    - (i) the places at, from or in relation to which the service provider is to provide a regulated service, and
    - (ii) the individual designated as the responsible individual for each place, and
  - (b) may be subject to such further conditions as the Welsh Ministers think appropriate.
- (4) Where a person has made a single application in respect of two or more regulated services the Welsh Ministers may separately grant or refuse the application in respect of each service.
- (5) But the grant of an application takes effect only if the requirements of sections 18 to 20 are met (so far as applicable).

## **8 Duration of domiciliary support visits**

- (1) The undertaking mentioned in section 7(1)(a)(ii) and 11(3)(a)(ii) is that a domiciliary support service will not be provided by way of a visit which is shorter than 30 minutes unless either condition A, B or C is met.
- (2) Condition A applies where –
- (a) a local authority is required –
    - (i) by virtue of section 35 or 37 of the 2014 Act, to meet the needs of the person being visited, or
    - (ii) by virtue of section 40 or 42 of that Act, to meet the needs of that person's carer, and

- (b) fo'r awdurdod yn diwallu'r anghenion hynny drwy ddarparu gwasanaeth cymorth cartref neu drwy drefnu bod gwasanaeth cymorth cartref yn cael ei ddarparu i'r person yr ymwelir ag ef.
- (3) Amod A yw –
- (a) bod yr unigolyn sy'n cynnal yr ymweliad wedi cynnal ymweliad blaenorol yn ystod y cyfnod y mae'r awdurdod lleol yn cynnal –
- (i) cynllun gofal a chymorth o dan adran 54(1) o Ddeddf 2014 mewn cysylltiad â'r person yr ymwelir ag ef, neu
- (ii) cynllun cymorth o dan yr adran honno mewn cysylltiad â gofalwr y person, a
- (b) naill ai –
- (i) y cynhelir yr ymweliad at yr unig ddiben o gadarnhau a yw'r person yn ddiogel ac yn iach, neu
- (ii) y gall y tasgau sydd i gael eu cwblhau yn ystod yr ymweliad gael eu cwblhau'n rhesymol, a'u bod yn cael eu cwblhau, i safon sy'n bodloni unrhyw ofynion a bennir mewn rheoliadau a wneir o dan adran 27 sy'n berthnasol i'r ymweliad.
- (4) Mae Amod B yn gymwys pan fo gwasanaeth cymorth cartref yn cael ei ddarparu o dan amgylchiadau pan na fo Amod A yn gymwys.
- (5) Amod B yw –
- (a) bod ymweliad sy'n llai na 30 munud yn gyson â thelerau unrhyw drefniant i ddarparu'r gwasanaeth a wneir rhwng y darparwr gwasanaeth a'r person yr ymwelir ag ef (neu berson arall sy'n gweithredu ar ran y person yr ymwelir ag ef),
- (b) y cynhelir yr ymweliad at yr unig ddiben o gadarnhau a yw'r person yn ddiogel ac yn iach, neu
- (c) y gall y tasgau sydd i gael eu cwblhau yn ystod yr ymweliad gael eu cwblhau'n rhesymol, a'u bod yn cael eu cwblhau, i safon sy'n bodloni unrhyw ofynion a bennir mewn rheoliadau a wneir o dan adran 27 sy'n berthnasol i'r ymweliad.
- (6) Mae Amod C yn gymwys mewn unrhyw achos pan fo gwasanaeth cymorth cartref yn cael ei ddarparu drwy ymweliad â pherson.
- (7) Amod C yw bod yr ymweliad yn cael ei gwtogi ar gais y person yr ymwelir ag ef.

## 9 Person addas a phriodol: ystyriaethau perthnasol

- (1) Mae'r adran hon yn gymwys i unrhyw benderfyniad gan Weinidogion Cymru o ran a yw –
- (a) darparwr gwasanaeth,
- (b) person sy'n gwneud cais i fod yn ddarparwr gwasanaeth,
- (c) unigolyn cyfrifol, neu
- (d) person sydd i'w ddynodi'n unigolyn cyfrifol,
- yn berson addas a phriodol i fod yn ddarparwr gwasanaeth neu, yn ôl y digwydd, unigolyn cyfrifol.

- (b) the authority meets those needs by providing or arranging the provision of a domiciliary support service to the person being visited.
- (3) Condition A is that –
  - (a) the individual carrying out the visit has previously carried out a visit during the period for which the local authority maintains –
    - (i) a care and support plan under section 54(1) of the 2014 Act in respect of the person being visited, or
    - (ii) a support plan under that section in respect of the person’s carer, and
  - (b) either –
    - (i) the visit is conducted for the sole purpose of checking whether the person is safe and well, or
    - (ii) the tasks to be performed during the visit can reasonably be, and are, completed to a standard which satisfies any requirements specified in regulations made under section 27 that are relevant to the visit.
- (4) Condition B applies where a domiciliary support service is provided in circumstances where Condition A does not apply.
- (5) Condition B is that –
  - (a) a visit of less than 30 minutes is consistent with the terms of any arrangement to provide the service made between the service provider and the person being visited (or another person acting on behalf of the person being visited),
  - (b) the visit is conducted for the sole purpose of checking whether the person is safe and well, or
  - (c) the tasks to be performed during the visit can reasonably be, and are, completed to a standard which satisfies any requirements specified in regulations made under section 27 that are relevant to the visit.
- (6) Condition C applies in any case where a domiciliary support service is provided by way of a visit to a person.
- (7) Condition C is that the visit is curtailed at the request of the person being visited.

**9 Fit and proper person: relevant considerations**

- (1) This section applies to any decision of the Welsh Ministers as to whether –
  - (a) a service provider,
  - (b) a person applying to be a service provider,
  - (c) a responsible individual, or
  - (d) a person to be designated as a responsible individual,is a fit and proper person to be a service provider or, as the case may be, a responsible individual.



- (2) Wrth wneud penderfyniad o'r fath rhaid i Weinidogion Cymru roi sylw i'r holl faterion sy'n briodol yn eu barn hwy.
- (3) Yn benodol, rhaid i Weinidogion Cymru roi sylw i unrhyw dystiolaeth sy'n dod o fewn is-adrannau (4) i (8).
- (4) Mae tystiolaeth yn dod o fewn yr is-adran hon os yw'n dangos bod y person wedi—
- (a) cyflawni—
    - (i) unrhyw drosedd sy'n ymwneud â thwyll neu anonestrwydd arall, trais, arfau tanio neu gyffuriau neu unrhyw drosedd sydd wedi ei rhestru yn Atodlen 3 i Ddeddf Troseddau Rhywiol 2003 (p.42) (troseddau sydd â gofynion hysbysu),
    - (ii) trosedd o dan y Ddeddf hon neu reoliadau a wneir odani,
    - (iii) trosedd o dan Ran 2 o Ddeddf Safonau Gofal 2000 (p.14) neu reoliadau a wneir odani, neu
    - (iv) unrhyw drosedd arall sy'n berthnasol ym marn Gweinidogion Cymru, neu
  - (b) aflonyddu ar rywun, neu wahaniaethu'n anghyfreithlon, ar sail unrhyw nodwedd sy'n nodwedd warchoddedig o dan adran 4 o Ddeddf Cydraddoldeb 2010 (p.15), neu wedi erlid person arall yn groes i'r Ddeddf honno, wrth gynnal unrhyw fusnes neu mewn cysylltiad â hynny.
- (5) Mae tystiolaeth o fewn yr is-adran hon—
- (a) os yw'n dangos bod unrhyw berson arall sy'n gysylltiedig â'r person neu a oedd yn gysylltiedig â'r person gynt (pa un ai ar sail bersonol, ar sail gwaith neu ar sail arall) wedi gwneud unrhyw un neu ragor o'r pethau a nodir yn is-adran (4), a
  - (b) os ymddengys i Weinidogion Cymru fod y dystiolaeth yn berthnasol wrth ystyried a yw'r person yn berson addas a phriodol i fod yn ddarparwr gwasanaeth neu, yn ôl y digwydd, yn unigolyn cyfrifol.
- (6) Mae tystiolaeth o fewn yr is-adran hon os yw'n dangos bod y person wedi bod yn gyfrifol am gamymddwyn neu gamreoli, neu wedi cyfrannu ato neu wedi ei hwyluso, wrth ddarparu—
- (a) gwasanaeth rheoleiddiedig neu wasanaeth a ddarperir y tu allan i Gymru a fyddai'n wasanaeth rheoleiddiedig pe bai'n cael ei ddarparu yng Nghymru;
  - (b) gwasanaeth a fyddai wedi dod o fewn paragraff (a) pe bai'r system reoleiddiol sydd wedi ei sefydlu gan y Rhan hon wedi bod yn weithredol ar yr adeg pan oedd y gwasanaeth yn cael ei ddarparu.
- (7) Wrth roi sylw i dystiolaeth o fewn is-adran (6), rhaid i Weinidogion Cymru, ymhlith pethau eraill, ystyried—
- (a) pa mor ddifrifol yw'r camymddwyn neu'r camreoli ac am ba hyd y bu'n digwydd;
  - (b) niwed a achoswyd i unrhyw berson, neu unrhyw dystiolaeth o fwriad i achosi niwed;
  - (c) unrhyw fantais ariannol a enillwyd gan y person;
  - (d) unrhyw gamau a gymerwyd gan y person i unioni'r camymddwyn neu'r camreoli.

- (2) In making such a decision the Welsh Ministers must have regard to all matters they think appropriate.
- (3) In particular, the Welsh Ministers must have regard to any evidence falling within subsections (4) to (8).
- (4) Evidence falls within this subsection if it shows that the person has –
  - (a) committed –
    - (i) any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c.42) (offences attracting notification requirements),
    - (ii) an offence under this Act or regulations made under it,
    - (iii) an offence under Part 2 of the Care Standards Act 2000 (c.14) or regulations made under it, or
    - (iv) any other offence which the Welsh Ministers think is relevant, or
  - (b) practised unlawful discrimination or harassment on the grounds of any characteristic which is a protected characteristic under section 4 of the Equality Act 2010 (c.15), or victimised another person contrary to that Act, in or in connection with the carrying on of any business.
- (5) Evidence is within this subsection if –
  - (a) it shows that any other person associated or formerly associated with the person (whether on a personal, work or other basis) has done any of the things set out in subsection (4), and
  - (b) it appears to the Welsh Ministers that the evidence is relevant to the question as to whether the person is a fit and proper person to be a service provider or, as the case may be, a responsible individual.
- (6) Evidence is within this subsection if it shows that the person has been responsible for, contributed to or facilitated misconduct or mismanagement in the provision –
  - (a) of a regulated service or a service provided outside Wales which, if provided in Wales, would be a regulated service;
  - (b) of a service which would have fallen within paragraph (a) had the regulatory system established by this Part been operating at the time the service was being provided.
- (7) When having regard to evidence within subsection (6), the Welsh Ministers must, among other things, take account of –
  - (a) the seriousness and duration of the misconduct or mismanagement;
  - (b) harm caused to any person, or any evidence of an intent to cause harm;
  - (c) any financial gain made by the person;
  - (d) any action taken by the person to remedy the misconduct or mismanagement.

- (8) Mae tystiolaeth o fewn yr is-adran hon os yw'n dangos bod y person wedi methu'n flaenorol â chydymffurfio –
- (a) ag ymgymeriad a roddir o dan adran 7(1)(a)(ii) neu 11(3)(a)(ii),
  - (b) ag amod a osodir o dan y Rhan hon, neu
  - (c) â gofyniad a osodir gan reoliadau o dan adran 27(1) neu 28(1).
- (9) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio'r adran hon i amrywio'r dystiolaeth y mae rhaid iddynt roi sylw iddi.

## 10 Datganiad blynyddol

- (1) Rhaid i ddarparwr gwasanaeth gyflwyno datganiad blynyddol i Weinidogion Cymru ar ôl diwedd pob blwyddyn ariannol y mae'r darparwr wedi ei gofrestru ynddi.
- (2) Rhaid i ddatganiad blynyddol gynnwys –
- (a) yr wybodaeth a ganlyn –
    - (i) y gwasanaethau rheoleiddiedig y mae'r darparwr gwasanaeth wedi ei gofrestru i'w darparu;
    - (ii) y manau y mae'r darparwr wedi ei gofrestru i ddarparu'r gwasanaethau hynny ynddynt, ohonynt neu mewn perthynas â hwy;
    - (iii) enw'r unigolyn cyfrifol sydd wedi ei gofrestru mewn cysylltiad â phob man o'r fath;
    - (iv) y dyddiad y cymerodd cofrestrriad y darparwr effaith mewn cysylltiad â phob gwasanaeth rheoleiddiedig a phob man o'r fath;
    - (v) manylion unrhyw amodau eraill a osodir ar gofrestrriad y darparwr gwasanaeth;
    - (vi) manylion am nifer y personau y darparodd y darparwr ofal a chymorth iddynt yn ystod y flwyddyn wrth ddarparu pob gwasanaeth o'r fath;
    - (vii) unrhyw wybodaeth a ragnodir am hyfforddiant a gynigir neu a gyflawnir mewn perthynas â phob gwasanaeth o'r fath;
    - (viii) unrhyw wybodaeth am gynllunio'r gweithlu a ragnodir;
    - (ix) unrhyw wybodaeth arall a ragnodir, a
  - (b) datganiad sy'n nodi sut y mae'r darparwr gwasanaeth wedi cydymffurfio ag unrhyw reoliadau a wneir o dan adran 27(1) sy'n pennu safon y gofal a'r cymorth y mae rhaid i ddarparwr gwasanaeth ei darparu (gweler adran 27(2)).
- (3) Rhaid i ddatganiad blynyddol fod ar y ffurf ragnodedig.
- (4) Rhaid cyflwyno datganiad blynyddol i Weinidogion Cymru o fewn y terfyn amser rhagnodedig.
- (5) Rhaid i Weinidogion Cymru gyhoeddi pob datganiad blynyddol a gyflwynir o dan is-adran (1).
- (6) Er gwaethaf adran 187(3), ni chaniateir gwneud offeryn statudol sy'n cynnwys –
- (a) y rheoliadau cyntaf a wneir o dan is-adran (2)(a)(vii),
  - (b) y rheoliadau cyntaf a wneir o dan is-adran (2)(a)(viii), neu

- (8) Evidence is within this subsection if it shows that the person has previously failed to comply with—
  - (a) an undertaking given under section 7(1)(a)(ii) or 11(3)(a)(ii),
  - (b) a condition imposed under this Part, or
  - (c) a requirement imposed by regulations under section 27(1) or 28(1).
- (9) The Welsh Ministers may by regulations amend this section to vary the evidence to which they must have regard.

## **10 Annual return**

- (1) A service provider must submit an annual return to the Welsh Ministers following the end of each financial year during which the provider is registered.
- (2) An annual return must contain—
  - (a) the following information—
    - (i) the regulated services that the service provider is registered to provide;
    - (ii) the places at, from or in relation to which the provider is registered to provide those services;
    - (iii) the name of the responsible individual registered in respect of each such place;
    - (iv) the date on which the provider's registration took effect in respect of each such regulated service and place;
    - (v) details of any other conditions imposed on the service provider's registration;
    - (vi) details of the number of persons to whom the provider provided care and support during the year in the course of providing each such service;
    - (vii) such information about training offered or undertaken in relation to each such service as may be prescribed;
    - (viii) such information about workforce planning as may be prescribed;
    - (ix) such other information as may be prescribed, and
  - (b) a statement setting out how the service provider has complied with any regulations made under section 27(1) specifying the standard of care and support that must be provided by a service provider (see section 27(2)).
- (3) An annual return must be in the prescribed form.
- (4) An annual return must be submitted to the Welsh Ministers within the prescribed time limit.
- (5) The Welsh Ministers must publish each annual return submitted under subsection (1).
- (6) Despite section 187(3), a statutory instrument containing—
  - (a) the first regulations made under subsection (2)(a)(vii),
  - (b) the first regulations made under subsection (2)(a)(viii), or

(c) y rheoliadau cyntaf a wneir o dan is-adran (2)(a)(ix),  
oni bai bod drafft o'r offeryn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo ganddo drwy benderfyniad.

## 11 Cais i amrywio cofrestriad fel darparwr gwasanaeth

- (1) Rhaid i ddarparwr gwasanaeth wneud cais i Weinidogion Cymru ar gyfer amrywio cofrestriad y darparwr—
  - (a) os yw'r darparwr yn dymuno—
    - (i) darparu gwasanaeth rheoleiddiedig nad yw'r darparwr eisoes wedi ei gofrestru i'w ddarparu,
    - (ii) darparu gwasanaeth rheoleiddiedig mewn man, o fan neu mewn perthynas â man nad yw eisoes wedi ei bennu yng nghofrestriad y darparwr mewn perthynas â'r gwasanaeth hwnnw,
    - (iii) peidio â darparu gwasanaeth rheoleiddiedig, neu
    - (iv) peidio â darparu gwasanaeth rheoleiddiedig mewn man, o fan neu mewn perthynas â man;
  - (b) os yw'r darparwr yn dymuno i amod a osodir o dan adran 7(3)(b), 12(2) neu 13(1) gael ei amrywio neu ei ddileu;
  - (c) os yw'r darparwr yn dymuno dynodi unigolyn cyfrifol gwahanol mewn cysylltiad â man neu y mae'n ofynnol iddo ddynodi unigolyn cyfrifol oherwydd nad oes unigolyn o'r fath wedi ei ddynodi mewn cysylltiad â man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef.
- (2) Rhaid i Weinidogion Cymru drwy reoliadau ragnodi terfyn amser y mae rhaid cyflwyno cais i amrywio cofrestriad darparwr ynddo o dan amgylchiadau pan na fo unigolyn cyfrifol wedi ei ddynodi mewn cysylltiad â man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef.
- (3) Rhaid i gais o dan is-adran (1)—
  - (a) cynnwys—
    - (i) manylion yr amrywiad y mae'r darparwr yn gofyn amdano,
    - (ii) yn achos cais o dan is-adran (1)(a)(i) i ddarparu gwasanaeth cymorth cartref, yr ymgymeriad yn adran 8, a
    - (iii) unrhyw wybodaeth arall a ragnodir;
  - (b) bod ar y ffurf ragnodedig.

## 12 Caniatáu neu wrthod cais am amrywiad

- (1) Caiff Gweinidogion Cymru ganiatáu neu wrthod cais o dan adran 11 (ond gweler is-adran (2)).
- (2) Yn achos cais o dan adran 11(1)(b), caiff Gweinidogion Cymru (yn lle caniatáu neu wrthod y cais)—
  - (a) amrywio amod ar delerau gwahanol i'r rhai a bennir yn y cais, neu

(c) the first regulations made under subsection (2)(a)(ix), may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

## 11 Application for variation of registration as a service provider

- (1) A service provider must apply to the Welsh Ministers for a variation of the provider's registration if –
  - (a) the provider wants to –
    - (i) provide a regulated service which the provider is not already registered to provide,
    - (ii) provide a regulated service at, from or in relation to a place which is not already specified in the provider's registration in relation to that service,
    - (iii) cease to provide a regulated service, or
    - (iv) cease to provide a regulated service at, from or in relation to a place;
  - (b) the provider wants a condition imposed under section 7(3)(b), 12(2) or 13(1) to be varied or removed;
  - (c) the provider wants to designate a different responsible individual in respect of a place or is required to designate a responsible individual because there is no such individual designated in respect of a place at, from or in relation to which the provider provides a regulated service.
- (2) The Welsh Ministers must by regulations prescribe a time limit within which an application for variation of a provider's registration must be made in circumstances where there is no responsible individual designated in respect of a place at, from or in relation to which the provider provides a regulated service.
- (3) An application under subsection (1) must –
  - (a) contain –
    - (i) details of the variation sought by the provider,
    - (ii) in the case of an application under subsection (1)(a)(i) to provide a domiciliary support service, the undertaking set out in section 8, and
    - (iii) such other information as may be prescribed;
  - (b) be in the prescribed form.

## 12 Grant or refusal of application for variation

- (1) The Welsh Ministers may grant or refuse an application under section 11 (but see subsection (2)).
- (2) In the case of an application under section 11(1)(b), the Welsh Ministers may (instead of granting or refusing the application) –
  - (a) vary a condition on different terms to those specified in the application, or

- (b) gosod amod arall ar gofrestrriad y darparwr (pa un ai yn lle'r amod y gwnaeth y darparwr gais i'w amrywio neu ei ddileu neu'n ychwanegol at yr amod hwnnw).
- (3) Ond dim ond os yw gofynion adrannau 18 i 20 wedi eu bodloni (i'r graddau y bônt yn gymwys) y mae amrywiad o dan yr adran hon yn cymryd effaith.

### **13 Amrywio heb gais**

- (1) Caiff Gweinidogion Cymru –
  - (a) amrywio unrhyw amod a osodir o dan adran 7(3)(b), 12(2) neu baragraff (b) o'r is-adran hon, neu
  - (b) gosod amod pellach ar gofrestrriad darparwr gwasanaeth.
- (2) Ni chaniateir amrywio cofrestrriad darparwr o dan is-adran (1) oni bai bod gofynion adrannau 18 a 19 wedi eu bodloni (ond nid yw hyn yn effeithio ar bŵer Gweinidogion Cymru i amrywio cofrestrriad ar frys o dan adran 25).
- (3) Os yw darparwr gwasanaeth yn darparu mwy nag un gwasanaeth rheoleiddiedig, caiff Gweinidogion Cymru amrywio cofrestrriad y darparwr drwy ddileu gwasanaeth rheoleiddiedig –
  - (a) os ydynt wedi eu bodloni nad yw'r darparwr gwasanaeth bellach yn darparu'r gwasanaeth hwnnw, neu
  - (b) os ydynt wedi eu bodloni nad yw'r gwasanaeth yn cael ei ddarparu yn unol â'r gofynion a grybwyllir yn adran 7(1)(d) i'r graddau y bônt yn gymwys i'r gwasanaeth hwnnw.
- (4) Os yw darparwr gwasanaeth yn darparu gwasanaeth rheoleiddiedig mewn mwy nag un man, o fwy nag un man neu mewn perthynas â mwy nag un man, caiff Gweinidogion Cymru amrywio cofrestrriad y darparwr drwy ddileu man os ydynt wedi eu bodloni –
  - (a) nad yw'r darparwr gwasanaeth bellach yn darparu gwasanaeth rheoleiddiedig yn y man hwnnw, ohono neu mewn perthynas ag ef,
  - (b) nad yw'r gwasanaeth a ddarperir yn y man hwnnw, ohono neu mewn perthynas ag ef yn cael ei ddarparu yn unol â'r gofynion a grybwyllir yn adran 7(1)(d) i'r graddau y bônt yn gymwys i'r gwasanaeth hwnnw, neu
  - (c) nad oes unrhyw unigolyn cyfrifol wedi ei ddynodi mewn cysylltiad â'r man hwnnw (a bod y terfyn amser a ragnodir o dan adran 11(2) wedi dod i ben).
- (5) Ni chaniateir i amrywiad gael ei wneud o dan is-adran (3) neu (4) oni bai bod gofynion adrannau 16 ac 17 wedi eu bodloni (ond nid yw hyn yn effeithio ar bŵer Gweinidogion Cymru i amrywio cofrestrriad ar frys o dan adran 23).

### **14 Cais i ganslo cofrestrriad fel darparwr gwasanaeth**

- (1) Os yw darparwr gwasanaeth yn gwneud cais i Weinidogion Cymru i ganslo ei gofrestrriad, rhaid i Weinidogion Cymru ganiatáu'r cais oni bai eu bod wedi cymryd camau gyda golwg ar ganslo'r cofrestrriad o dan adran 15 neu 23.
- (2) Rhaid i Weinidogion Cymru roi hysbysiad ynghylch caniatáu cais i ganslo o dan yr adran hon i'r darparwr gwasanaeth.

- (b) impose another condition on the provider's registration (whether in place of or in addition to the condition which the provider applied to have varied or removed).
- (3) But a variation under this section takes effect only if the requirements of sections 18 to 20 are met (so far as applicable).

### **13 Variation without application**

- (1) The Welsh Ministers may –
  - (a) vary any condition imposed under section 7(3)(b), 12(2) or paragraph (b) of this subsection, or
  - (b) impose a further condition on a service provider's registration.
- (2) No variation of a provider's registration may be made under subsection (1) unless the requirements of sections 18 and 19 are met (but this does not affect the Welsh Ministers' power to urgently vary a registration under section 25).
- (3) If a service provider provides more than one regulated service, the Welsh Ministers may vary the provider's registration by removing a regulated service if satisfied that –
  - (a) the service provider no longer provides that service, or
  - (b) the service is not being provided in accordance with the requirements mentioned in section 7(1)(d) so far as applicable to that service.
- (4) If a service provider provides a regulated service at, from or in relation to more than one place, the Welsh Ministers may vary the provider's registration by removing a place if satisfied that –
  - (a) the service provider no longer provides a regulated service at, from or in relation to that place,
  - (b) the service provided at, from or in relation to that place is not being provided in accordance with the requirements mentioned in section 7(1)(d) so far as applicable to that service, or
  - (c) there is no responsible individual designated in respect of that place (and the time limit prescribed under section 11(2) has expired).
- (5) No variation may be made under subsection (3) or (4) unless the requirements of sections 16 and 17 are met (but this does not affect the Welsh Ministers' power to urgently vary a registration under section 23).

### **14 Application for cancellation of registration as a service provider**

- (1) If a service provider applies to the Welsh Ministers for cancellation of the provider's registration, the Welsh Ministers must grant the application unless they have taken action with a view to cancelling the registration under section 15 or 23.
- (2) The Welsh Ministers must give notice of the granting of an application for cancellation under this section to the service provider.



- (3) Mae canslo o dan yr adran hon yn cymryd effaith –
- (a) ar y diwrnod sydd 3 mis ar ôl y diwrnod y mae'r darparwr gwasanaeth yn cael yr hysbysiad, neu
  - (b) ar unrhyw ddiwrnod cynharach a bennir gan Weinidogion Cymru yn yr hysbysiad.

## 15 Canslo heb gais

- (1) Caiff Gweinidogion Cymru ganslo cofrestriad darparwr gwasanaeth ar unrhyw un neu ragor o'r seiliau a ganlyn –
- (a) nid yw'r darparwr gwasanaeth bellach yn darparu unrhyw wasanaethau rheoleiddiedig;
  - (b) nid yw Gweinidogion Cymru wedi eu bodloni bellach fod y darparwr gwasanaeth yn berson addas a phriodol i fod yn ddarparwr gwasanaeth (gweler adran 9);
  - (c) nid oes unigolyn cyfrifol wedi ei ddynodi mewn cysylltiad â phob man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef (ac mae'r terfyn amser ar gyfer gwneud cais i amrywio'r cofrestriad a ragnodir mewn rheoliadau a wneir o dan adran 11(2) wedi dod i ben);
  - (d) mae'r darparwr gwasanaeth neu unigolyn cyfrifol sydd wedi ei ddynodi mewn cysylltiad â man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef wedi ei gollfarnu o drosedd berthnasol, neu wedi cael rhybuddiad mewn cysylltiad â throedd berthnasol, mewn cysylltiad â gwasanaeth rheoleiddiedig a ddarperir gan y darparwr gwasanaeth;
  - (e) mae unrhyw berson arall wedi ei gollfarnu o drosedd berthnasol, neu wedi cael rhybuddiad mewn cysylltiad â throedd berthnasol, mewn cysylltiad â gwasanaeth rheoleiddiedig a ddarperir gan y darparwr gwasanaeth;
  - (f) nid yw gwasanaeth rheoleiddiedig a ddarperir gan y darparwr gwasanaeth yn cael ei ddarparu yn unol â'r gofynion a grybwyllir yn adran 7(1)(d) i'r graddau y bônt yn gymwys i'r gwasanaeth hwnnw.
- (2) At ddibenion is-adran (1)(d) ac (e), mae'r canlynol yn droseddau perthnasol –
- (a) trosedd o dan y Ddeddf hon neu reoliadau a wneir odani;
  - (b) trosedd o dan Ran 2 o Ddeddf Safonau Gofal 2000 (p.14) neu reoliadau a wneir odani;
  - (c) unrhyw drosedd sydd, ym marn Gweinidogion Cymru, yn ei gwneud yn briodol i'r cofrestriad gael ei ganslo (gan gynnwys tramgwydd a gyflawnwyd y tu allan i Gymru a Lloegr a fyddai'n drosedd pe bai wedi ei gyflawni yng Nghymru a Lloegr).
- (3) Ni chaniateir i gofrestrriad gael ei ganslo o dan yr adran hon oni bai bod gofynion adrannau 16 a 17 wedi eu bodloni (ond nid yw hyn yn effeithio ar bŵer Gweinidogion Cymru i ganslo cofrestriad ar frys o dan adran 23).

- (3) Cancellation under this section takes effect—
  - (a) on the day falling 3 months after the day on which the service provider receives the notice, or
  - (b) such earlier day as the Welsh Ministers may specify in the notice.

**15 Cancellation without application**

- (1) The Welsh Ministers may cancel the registration of a service provider on any of the following grounds—
  - (a) the service provider no longer provides any regulated services;
  - (b) the Welsh Ministers are no longer satisfied that the service provider is a fit and proper person to be a service provider (see section 9);
  - (c) there is no responsible individual designated in respect of each place at, from or in relation to which the provider provides a regulated service (and the time limit for applying to vary the registration prescribed in regulations made under section 11(2) has expired);
  - (d) the service provider or a responsible individual designated in respect of a place at, from or in relation to which the provider provides a regulated service has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider;
  - (e) any other person has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider;
  - (f) a regulated service provided by the service provider is not being provided in accordance with the requirements mentioned in section 7(1)(d) so far as applicable to that service.
- (2) For the purposes of subsection (1)(d) and (e), the following are relevant offences—
  - (a) an offence under this Act or regulations made under it;
  - (b) an offence under Part 2 of the Care Standards Act 2000 (c.14) or regulations made under it;
  - (c) any offence which, in the opinion of the Welsh Ministers, makes it appropriate for the registration to be cancelled (including an offence committed outside England and Wales which, if committed in England and Wales, would constitute a criminal offence).
- (3) No cancellation may be made under this section unless the requirements of sections 16 and 17 are met (but this does not affect the Welsh Ministers' power to urgently cancel a registration under section 23).

*Gofynion hysbysiadau***16 Hysbysiadau gwella**

- (1) Mae'r adran hon yn gymwys pan fo Gweinidogion Cymru yn bwriadu –
  - (a) canslo cofrestriad darparwr gwasanaeth o dan adran 15, neu
  - (b) amrywio cofrestriad darparwr o dan adran 13(3) neu (4).
- (2) Cyn canslo neu amrywio'r cofrestriad rhaid i Weinidogion Cymru roi hysbysiad gwella i'r darparwr gwasanaeth.
- (3) Rhaid i hysbysiad gwella a roddir o dan is-adran (2) bennu –
  - (a) ar ba sail y mae Gweinidogion Cymru yn bwriadu canslo neu amrywio'r cofrestriad ac, yn achos amrywiad, y modd y gwneir yr amrywiad,
  - (b) y camau y mae Gweinidogion Cymru yn meddwl y mae rhaid i'r darparwr eu cymryd, neu'r wybodaeth y mae rhaid i'r darparwr ei darparu, er mwyn eu bodloni nad yw canslo neu amrywio ar y sail honno yn briodol, ac
  - (c) terfyn amser –
    - (i) ar gyfer cymryd y camau neu ddarparu'r wybodaeth, a
    - (ii) i'r darparwr gwasanaeth gyflwyno sylwadau.
- (4) Caiff y darparwr gwasanaeth gyflwyno sylwadau i Weinidogion Cymru cyn i'r terfyn amser a bennir yn yr hysbysiad gwella ddod i ben a rhaid i Weinidogion Cymru roi sylw i'r sylwadau hynny wrth benderfynu beth i'w wneud o dan adran 17.

**17 Hysbysiad o benderfyniad yn dilyn hysbysiad gwella**

- (1) Os yw Gweinidogion Cymru wedi eu bodloni –
  - (a) bod y camau a bennir mewn hysbysiad gwella wedi eu cymryd, neu
  - (b) bod yr wybodaeth a bennir felly wedi ei darparu,

o fewn y terfyn amser a bennir yn yr hysbysiad, rhaid iddynt hysbysu'r darparwr gwasanaeth eu bod wedi penderfynu peidio â chanslo neu amrywio cofrestriad y darparwr ar y sail a bennir yn yr hysbysiad gwella.
- (2) Os nad yw Gweinidogion Cymru wedi eu bodloni bod yr wybodaeth a bennir mewn hysbysiad gwella wedi ei darparu o fewn y terfyn amser a bennir yn yr hysbysiad, rhaid iddynt roi hysbysiad o benderfyniad i'r darparwr gwasanaeth sy'n datgan bod cofrestriad y darparwr i'w ganslo neu i'w amrywio ar y sail a bennir yn yr hysbysiad gwella.
- (3) Os nad yw Gweinidogion Cymru wedi eu bodloni bod y camau a bennir mewn hysbysiad gwella wedi eu cymryd o fewn y terfyn amser a bennir yn yr hysbysiad, rhaid iddynt naill ai –
  - (a) rhoi hysbysiad o benderfyniad i'r darparwr gwasanaeth sy'n datgan bod cofrestriad y darparwr i'w ganslo neu i'w amrywio ar y sail a bennir yn yr hysbysiad gwella, neu

*Notice requirements*

**16 Improvement notices**

- (1) This section applies where the Welsh Ministers propose to –
  - (a) cancel the registration of a service provider under section 15, or
  - (b) vary a provider’s registration under section 13(3) or (4).
- (2) Before cancelling or varying the registration the Welsh Ministers must give an improvement notice to the service provider.
- (3) An improvement notice given under subsection (2) must specify –
  - (a) the ground on which the Welsh Ministers propose to cancel or vary the registration and, in the case of a variation, the manner of the variation,
  - (b) action the Welsh Ministers think the provider must take, or information the provider must provide, in order to satisfy them that cancellation or variation on the basis of that ground is not appropriate, and
  - (c) a time limit within which –
    - (i) the action must be taken or the information must be provided, and
    - (ii) the service provider may make representations.
- (4) The service provider may make representations to the Welsh Ministers before the expiry of the time limit specified in the improvement notice and the Welsh Ministers must have regard to those representations when deciding what to do under section 17.

**17 Notice of decision following improvement notice**

- (1) If the Welsh Ministers are satisfied that –
  - (a) action specified in an improvement notice has been taken, or
  - (b) information so specified has been provided,within the time limit specified in the notice they must notify the service provider that they have decided not to cancel or vary the provider’s registration on the ground specified in the improvement notice.
- (2) If the Welsh Ministers are not satisfied that information specified in an improvement notice has been provided within the time limit specified in the notice they must give the service provider a decision notice stating that the provider’s registration is to be cancelled or varied on the ground specified in the improvement notice.
- (3) If the Welsh Ministers are not satisfied that action specified in an improvement notice has been taken within the time limit specified in the notice they must either –
  - (a) give the service provider a decision notice stating that the provider’s registration is to be cancelled or varied on the ground specified in the improvement notice, or

- (b) hysbysu'r darparwr –
  - (i) nad yw'r camau wedi eu cymryd,
  - (ii) am ddyddiad newydd erbyn pryd y mae rhaid cymryd y camau,
  - (iii) y bydd arolygiad o dan adran 33 o'r gwasanaeth rheoleiddiedig neu'r man y mae'r hysbysiad gwella yn ymwneud ag ef yn cael ei gynnal ar ôl y dyddiad hwnnw, a
  - (iv) y byddant, ar ôl yr arolygiad hwnnw, os nad yw'r camau wedi eu cymryd, yn bwrw ymlaen i ganslo neu amrywio cofrestriad y darparwr ar y sail a bennir yn yr hysbysiad gwella.
- (4) Os yw Gweinidogion Cymru wedi eu bodloni, ar ôl yr arolygiad, fod y camau a bennir yn yr hysbysiad gwella wedi eu cymryd, rhaid iddynt hysbysu'r darparwr gwasanaeth eu bod wedi penderfynu peidio â bwrw ymlaen i ganslo neu amrywio cofrestriad y darparwr ar y sail a bennir yn yr hysbysiad gwella.
- (5) Os nad yw Gweinidogion Cymru wedi eu bodloni o hyd, ar ôl yr arolygiad, fod y camau a bennir yn yr hysbysiad gwella wedi eu cymryd, rhaid iddynt roi hysbysiad o benderfyniad i'r darparwr gwasanaeth sy'n datgan bod cofrestriad y darparwr i'w ganslo neu i'w amrywio ar y sail a bennir yn yr hysbysiad gwella.
- (6) Rhaid i hysbysiad o benderfyniad a roddir o dan is-adran (2), (3)(a) neu (5) –
  - (a) datgan y rhesymau dros y penderfyniad (gan gynnwys y seiliau dros ganslo neu amrywio), a
  - (b) esbonio'r hawl i apelio a roddir gan adran 26.
- (7) Mae penderfyniad a ddatgenir mewn hysbysiad a roddir o dan is-adran (2), (3)(a) neu (5) yn cymryd effaith –
  - (a) os na wneir apêl yn erbyn y penderfyniad, ar y diwrnod ar ôl diwrnod olaf y cyfnod o 28 o ddiwrnodau y cyfeirir ato yn adran 26(2), neu
  - (b) os gwneir apêl, ar y diwrnod a bennir gan y tribiwnlys wrth ddyfarnu ar yr apêl neu ar y diwrnod y tynnir yr apêl yn ôl.

## 18 Hysbysiad o gynnig

- (1) Mae'r adran hon yn gymwys pan fo Gweinidogion Cymru yn bwriadu –
  - (a) caniatáu cais i gofrestru fel darparwr gwasanaeth yn ddarostyngedig i amod na chytunwyd arno'n ysgrifenedig â'r ymgeisydd,
  - (b) gwrthod cais i gofrestru neu i amrywio cofrestriad fel darparwr gwasanaeth, neu
  - (c) amrywio cofrestriad darparwr gwasanaeth ac eithrio –
    - (i) yn unol â chais am amrywiad a wneir o dan adran 11, neu
    - (ii) o dan adran 13(3) neu (4), 23(1)(b) neu 25(2)(a).
- (2) Rhaid i Weinidogion Cymru roi hysbysiad o'r cynnig i'r darparwr gwasanaeth –
  - (a) sy'n pennu'r camau y mae Gweinidogion Cymru yn bwriadu eu cymryd,
  - (b) sy'n rhoi rhesymau dros y cynnig, ac

- (b) notify the provider –
  - (i) that the action has not been taken,
  - (ii) of a new date by which the action must be taken,
  - (iii) that, following that date, an inspection under section 33 of the regulated service or place to which the improvement notice relates will be carried out, and
  - (iv) that, following that inspection, if the action has not been taken they will proceed to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (4) If, after the inspection, the Welsh Ministers are satisfied that the action specified in the improvement notice has been taken they must notify the service provider that they have decided not to cancel or vary the provider's registration on the ground specified in the improvement notice.
- (5) If, after the inspection, the Welsh Ministers are still not satisfied that the action specified in the improvement notice has been taken they must give the service provider a decision notice stating that the provider's registration is to be cancelled or varied on the ground specified in the improvement notice.
- (6) A decision notice given under subsection (2), (3)(a) or (5) must –
  - (a) state the reasons for the decision (including the grounds for cancellation or variation), and
  - (b) explain the right of appeal conferred by section 26.
- (7) A decision stated in a notice given under subsection (2), (3)(a) or (5) takes effect –
  - (a) if no appeal is made against the decision, on the day after the last day of the 28 day period referred to in section 26(2), or
  - (b) if an appeal is made, on the day specified by the tribunal in determining the appeal or on the day the appeal is withdrawn.

## 18 Notice of proposal

- (1) This section applies where the Welsh Ministers propose to –
  - (a) grant an application for registration as a service provider subject to a condition that has not been agreed in writing with the applicant,
  - (b) refuse an application for registration or for variation of registration as a service provider, or
  - (c) vary the registration of a service provider other than –
    - (i) in accordance with an application for variation made under section 11, or
    - (ii) under section 13(3) or (4), 23(1)(b) or 25(2)(a).
- (2) The Welsh Ministers must give a notice of the proposal to the service provider –
  - (a) specifying the action the Welsh Ministers propose to take,
  - (b) giving reasons for the proposal, and

- (c) sy'n pennu terfyn amser o ddim llai nag 28 o ddiwrnodau o'r dyddiad y rhoddir yr hysbysiad y caiff y darparwr gwasanaeth gyflwyno sylwadau i Weinidogion Cymru ynddo.
- (3) Caiff hysbysiad o gynnig bennu'r camau a fyddai'n arwain, pe baent yn cael eu cymryd gan ddarparwr o fewn y terfyn amser a bennir yn yr hysbysiad, at Weinidogion Cymru yn peidio â chymryd y camau y maent yn eu cynnig yn yr hysbysiad.
- (4) Yn achos gwrthod cais i gofrestru fel darparwr gwasanaeth mae cyfeiriadau yn yr adran hon ac adran 19 at "darparwr gwasanaeth" i'w trin fel cyfeiriadau at y person a wnaeth gais i gael ei gofrestru fel darparwr gwasanaeth.

## **19 Hysbysiad o benderfyniad yn dilyn hysbysiad o gynnig**

- (1) Mae'r adran hon yn gymwys pan fo Gweinidogion Cymru wedi rhoi hysbysiad o gynnig.
- (2) Wrth wneud penderfyniad am y cynnig, rhaid i Weinidogion Cymru roi sylw i unrhyw sylwadau a gyflwynir iddynt (pa un ai gan y darparwr gwasanaeth neu gan unrhyw berson arall y mae Gweinidogion Cymru yn meddwl bod ganddo fuddiant).
- (3) Os yw Gweinidogion Cymru wedi eu bodloni bod darparwr gwasanaeth wedi cymryd unrhyw gamau a bennir o dan adran 18(3) o fewn y terfyn amser a bennir yn yr hysbysiad o gynnig, rhaid iddynt beidio â chymryd y camau a gynnigir yn yr hysbysiad.
- (4) Rhaid i Weinidogion Cymru roi hysbysiad o benderfyniad i'r darparwr gwasanaeth heb fod yn hwyrach nag 28 o ddiwrnodau ar ôl i'r diweddaraf o'r canlynol ddod i ben –
  - (a) y terfyn amser a bennir o dan is-adran (2)(c) o adran 18, neu
  - (b) unrhyw derfyn amser a bennir o dan is-adran (3) o'r adran honno.
- (5) Er gwaethaf is-adran (4), mae hysbysiad o benderfyniad a roddir ar ôl y cyfnod o 28 o ddiwrnodau a grybwyllir yn yr is-adran honno yn ddilys os yw'r hysbysiad –
  - (a) yn rhoi'r rhesymau dros yr oedi cyn gwneud y penderfyniad, a
  - (b) yn cael ei roi heb fod yn hwyrach na 56 o ddiwrnodau ar ôl i'r diweddaraf o'r terfynau amser a grybwyllir ym mharagraffau (a) a (b) o is-adran (4) ddod i ben.
- (6) Rhaid i hysbysiad o benderfyniad a roddir o dan is-adran (4) –
  - (a) datgan a yw Gweinidogion Cymru wedi penderfynu cymryd y camau a bennir yn yr hysbysiad o gynnig,
  - (b) rhoi rhesymau dros y penderfyniad, ac
  - (c) os yw Gweinidogion Cymru wedi penderfynu cymryd y camau a bennir yn yr hysbysiad o gynnig, esbonio'r hawl i apelio a roddir gan adran 26.
- (7) Mae penderfyniad a ddatgenir mewn hysbysiad a roddir o dan is-adran (4) i gymryd camau a bennir mewn hysbysiad o gynnig yn cymryd effaith –
  - (a) os na wneir apêl yn erbyn y penderfyniad, ar y diwrnod ar ôl diwrnod olaf y cyfnod o 28 o ddiwrnodau y cyfeirir ato yn adran 26(2), neu
  - (b) os gwneir apêl, ar y diwrnod a bennir gan y tribiwnlys wrth ddyfarnu ar yr apêl neu ar y diwrnod y tynnir yr apêl yn ôl.
- (8) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio –
  - (a) y cyfnod o 28 o ddiwrnodau a grybwyllir yn is-adran (4);

- (c) specifying a time limit of no less than 28 days from the date on which the notice is given within which the service provider may make representations to the Welsh Ministers.
- (3) A notice of proposal may specify action which, if taken by a provider within the time limit specified in the notice, would result in the Welsh Ministers not taking the action they propose in the notice.
- (4) In the case of a refusal of an application for registration as a service provider references in this section and section 19 to a “service provider” are to be treated as references to the person who applied to be registered as a service provider.

## **19 Notice of decision following notice of proposal**

- (1) This section applies where the Welsh Ministers have given a notice of proposal.
- (2) In making a decision on the proposal, the Welsh Ministers must have regard to any representations made to them (whether made by the service provider or any other person who the Welsh Ministers think has an interest).
- (3) If the Welsh Ministers are satisfied that a service provider has taken such action as may be specified under section 18(3) within the time limit specified in the notice of proposal, they must not take the action proposed in the notice.
- (4) The Welsh Ministers must give a notice of decision to the service provider no later than 28 days after the expiry of the later of –
  - (a) the time limit specified under subsection (2)(c) of section 18, or
  - (b) any time limit as may be specified under subsection (3) of that section.
- (5) Despite subsection (4), a notice of decision given after the 28 day period mentioned in that subsection is valid if the notice –
  - (a) gives reasons for the delay in making the decision, and
  - (b) is given no later than 56 days after the expiry of the later of the time limits mentioned in paragraphs (a) and (b) of subsection (4).
- (6) A notice of decision given under subsection (4) must –
  - (a) state whether the Welsh Ministers have decided to take the action specified in the notice of proposal,
  - (b) give reasons for the decision, and
  - (c) if the Welsh Ministers have decided to take the action specified in the notice of proposal, explain the right of appeal conferred by section 26.
- (7) A decision stated in a notice given under subsection (4) to take action specified in a notice of proposal takes effect –
  - (a) if no appeal is made against the decision, on the day after the last day of the 28 day period referred to in section 26(2), or
  - (b) if an appeal is made, on the day specified by the tribunal in determining the appeal or on the day the appeal is withdrawn.
- (8) The Welsh Ministers may by regulations amend –
  - (a) the 28 day period mentioned in subsection (4);



(b) y cyfnod o 56 o ddiwrnodau a grybwyllir yn is-adran (5)(b).

## 20 Hysbysiad o benderfyniad heb hysbysiad o gynnig

- (1) Mae'r adran hon yn gymwys pan fo Gweinidogion Cymru wedi penderfynu –
  - (a) caniatáu cais i gofrestru fel darparwr gwasanaeth yn ddarostyngedig yn unig i amodau y cytunwyd arnynt yn ysgrifenedig â'r ymgeisydd, neu
  - (b) amrywio cofrestriad darparwr gwasanaeth yn unol â chais am amrywiad a wneir o dan adran 11.
- (2) Rhaid i Weinidogion Cymru roi hysbysiad o benderfyniad i'r darparwr gwasanaeth.
- (3) Mae penderfyniad a ddatgenir mewn hysbysiad a roddir o dan is-adran (2) yn cymryd effaith ar y dyddiad y rhoddir yr hysbysiad.

### *Unigolion cyfrifol*

## 21 Unigolion cyfrifol

- (1) Yn y Rhan hon, ystyr "unigolyn cyfrifol" yw unigolyn –
  - (a) sy'n gymwys i fod yn unigolyn cyfrifol o dan is-adran (2),
  - (b) y mae Gweinidogion Cymru wedi eu bodloni ei fod yn berson addas a phriodol i fod yn unigolyn cyfrifol (gweler adran 9), ac
  - (c) sydd wedi ei ddynodi gan ddarparwr gwasanaeth mewn cysylltiad â man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef ac a bennir felly yng nghofrestriad y darparwr gwasanaeth.
- (2) I fod yn gymwys i fod yn unigolyn cyfrifol rhaid i'r unigolyn –
  - (a) pan fo'r darparwr gwasanaeth yn unigolyn, fod y darparwr gwasanaeth;
  - (b) pan fo'r darparwr gwasanaeth yn bartneriaeth, fod yn un o'r partneriaid;
  - (c) pan fo'r darparwr gwasanaeth yn gorff corfforaethol ac eithrio awdurdod lleol –
    - (i) bod yn gyfarwyddwr neu'n swyddog tebyg yn y corff,
    - (ii) yn achos cwmni cyfyngedig cyhoeddus, fod yn gyfarwyddwr neu'n ysgrifennydd yn y cwmni, neu
    - (iii) yn achos corff corfforaethol y mae ei faterion yn cael eu rheoli gan ei aelodau, fod yn aelod o'r corff;
  - (d) pan fo'r darparwr gwasanaeth yn gorff anghorfforedig, fod yn aelod o'r corff;
  - (e) pan fo'r darparwr gwasanaeth yn awdurdod lleol, fod yn swyddog yn yr awdurdod lleol a ddynodir gan gyfarwyddwr gwasanaethau cymdeithasol yr awdurdod.
- (3) At ddibenion is-adran (2)(e), dim ond os yw cyfarwyddwr gwasanaethau cymdeithasol awdurdod lleol yn meddwl bod gan swyddog y profiad a'r arbenigedd angenrheidiol i fod yn unigolyn cyfrifol y caiff ddynodi'r swyddog hwnnw.
- (4) Caniateir i'r un unigolyn cyfrifol gael ei ddynodi mewn cysylltiad â mwy nag un man y darperir gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef.

- (b) the 56 day period mentioned in subsection (5)(b).

**20 Notice of decision without notice of proposal**

- (1) This section applies where the Welsh Ministers have decided to –
  - (a) grant an application for registration as a service provider subject only to conditions that have been agreed in writing with the applicant, or
  - (b) vary the registration of a service provider in accordance with an application for variation made under section 11.
- (2) The Welsh Ministers must give a notice of decision to the service provider.
- (3) A decision stated in a notice given under subsection (2) takes effect on the date on which the notice is given.

*Responsible individuals*

**21 Responsible individuals**

- (1) In this Part, “responsible individual” means an individual –
  - (a) who is eligible to be a responsible individual under subsection (2),
  - (b) who the Welsh Ministers are satisfied is a fit and proper person to be a responsible individual (see section 9), and
  - (c) designated by a service provider in respect of a place at, from or in relation to which the provider provides a regulated service and specified as such in the service provider’s registration.
- (2) To be eligible to be a responsible individual the individual must –
  - (a) where the service provider is an individual, be the service provider;
  - (b) where the service provider is a partnership, be one of the partners;
  - (c) where the service provider is a body corporate other than a local authority –
    - (i) be a director or similar officer of the body,
    - (ii) in the case of a public limited company, be a director or company secretary, or
    - (iii) in the case of a body corporate whose affairs are managed by its members, be a member of the body;
  - (d) where the service provider is an unincorporated body, be a member of the body;
  - (e) where the service provider is a local authority, be an officer of the local authority designated by the authority’s director of social services.
- (3) For the purposes of subsection (2)(e), a local authority’s director of social services may designate an officer only if the director thinks that the officer has the necessary experience and expertise to be a responsible individual.
- (4) The same responsible individual may be designated in relation to more than one place at, from or in relation to which a regulated service is provided.

- (5) Caiff Gweinidogion Cymru, drwy reoliadau –
- (a) pennu amgylchiadau pan gaiff Gweinidogion Cymru (yn lle darparwr gwasanaeth) ddynodi unigolyn i fod yn unigolyn cyfrifol er nad yw gofynion is-adran (2) wedi eu bodloni mewn cysylltiad â'r unigolyn, a
  - (b) gwneud darpariaeth i'r Rhan hon fod yn gymwys gydag addasiadau rhagnodedig i unigolyn cyfrifol o'r fath.

## **22 Canslo dynodiad unigolyn cyfrifol**

- (1) Dim ond ar un neu ragor o'r seiliau a ganlyn y caiff Gweinidogion Cymru ganslo dynodiad unigolyn cyfrifol –
- (a) bod rheswm ganddynt dros gredu nad yw'r unigolyn bellach yn bodloni gofynion adran 21(2);
  - (b) bod rheswm ganddynt dros gredu bod yr unigolyn wedi ei gollfarnu o drosedd berthnasol, neu wedi cael rhybuddiad mewn cysylltiad â throstedd berthnasol, mewn cysylltiad â gwasanaeth rheoleiddiedig a ddarperir gan y darparwr gwasanaeth;
  - (c) nad ydynt bellach wedi eu bodloni bod yr unigolyn yn berson addas a phriodol i fod yn unigolyn cyfrifol (gweler adran 9);
  - (d) bod rheswm ganddynt dros gredu nad yw'r unigolyn wedi cydymffurfio â gofyniad a osodir ar yr unigolyn gan reoliadau o dan adran 28(1).
- (2) Yn is-adran (1)(b), mae i "trostedd berthnasol" yr un ystyr ag yn adran 15.
- (3) Os yw Gweinidogion Cymru yn bwriadu canslo dynodiad unigolyn cyfrifol rhaid iddynt roi hysbysiad gwella i'r unigolyn.
- (4) Rhaid i hysbysiad gwella a roddir o dan is-adran (3) bennu –
- (a) y rheswm pam y mae Gweinidogion Cymru yn bwriadu canslo dynodiad yr unigolyn cyfrifol,
  - (b) naill ai –
    - (i) y camau y maent yn meddwl y mae rhaid i'r unigolyn eu cymryd, neu
    - (ii) yr wybodaeth y maent yn meddwl y mae rhaid i'r unigolyn ei darparu, er mwyn eu bodloni na ddylid canslo dynodiad yr unigolyn, ac
  - (c) terfyn amser ar gyfer cymryd y camau neu ddarparu'r wybodaeth.
- (5) Os nad yw Gweinidogion Cymru wedi eu bodloni –
- (a) bod y camau a bennir mewn hysbysiad gwella wedi eu cymryd, neu
  - (b) bod yr wybodaeth a bennir felly wedi ei darparu,
- o fewn y terfyn amser a bennir yn yr hysbysiad cânt roi hysbysiad canslo.
- (6) Caiff Gweinidogion Cymru roi hysbysiad canslo dynodiad unigolyn cyfrifol heb gymryd y camau a grybwyllir yn is-adrannau (3) i (5) os oes ganddynt sail resymol dros gredu y bydd person, neu y gall person fod, yn agored i berygl o niwed oni bai bod y dynodiad yn cael ei ganslo.

- (5) The Welsh Ministers may, by regulations –
- (a) specify circumstances in which the Welsh Ministers (instead of a service provider) may designate an individual to be a responsible individual despite the requirements of subsection (2) not being met in respect of the individual, and
  - (b) make provision for this Part to apply with prescribed modifications to such a responsible individual.

## **22 Cancellation of designation of a responsible individual**

- (1) The Welsh Ministers may cancel a responsible individual's designation only on one or more of the following grounds –
- (a) they have reason to believe the individual no longer satisfies the requirements of section 21(2);
  - (b) they have reason to believe the individual has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider;
  - (c) they are no longer satisfied that the individual is a fit and proper person to be a responsible individual (see section 9);
  - (d) they have reason to believe that the individual has not complied with a requirement imposed on the individual by regulations under section 28(1).
- (2) In subsection (1)(b), “relevant offence” has the same meaning as in section 15.
- (3) If the Welsh Ministers propose to cancel a responsible individual's designation they must give the individual an improvement notice.
- (4) An improvement notice given under subsection (3) must specify –
- (a) the reason why the Welsh Ministers propose to cancel the responsible individual's designation,
  - (b) either –
    - (i) action that they think the individual must take, or
    - (ii) information they think the individual must provide,in order to satisfy them that the individual's designation should not be cancelled, and
  - (c) a time limit within which the action must be taken or the information must be provided.
- (5) If the Welsh Ministers are not satisfied that –
- (a) action specified in an improvement notice has been taken, or
  - (b) information so specified has been provided,
- within the time limit specified in the notice they may give a notice of cancellation.
- (6) The Welsh Ministers may give a notice of cancellation of a responsible individual's designation without taking the steps mentioned in subsections (3) to (5) if they have reasonable cause to believe that unless the designation is cancelled a person will or may be exposed to a risk of harm.

- (7) Rhaid rhoi hysbysiad canslo –
- (a) i'r unigolyn cyfrifol, a
  - (b) i'r darparwr gwasanaeth a ddynododd yr unigolyn.
- (8) Mae unigolyn yn peidio â bod wedi ei ddynodi'n unigolyn cyfrifol pan roddir yr hysbysiad canslo i'r darparwr gwasanaeth.
- (9) Rhaid i hysbysiad canslo –
- (a) rhoi rhesymau dros y penderfyniad,
  - (b) esbonio'r hawl i apelio a roddir gan adran 26,
  - (c) esbonio'r gofyniad ar y darparwr gwasanaeth i wneud cais am amrywiad i'r cofrestriad (gweler adran 11(1)(c)), a
  - (d) datgan y terfyn amser a ragnodir o dan adran 11(2) (terfyn amser rhagnodedig ar gyfer gwneud cais i ddynodi unigolyn cyfrifol newydd).
- (10) Yn is-adran (6), ystyr "niwed" yw cam-drin neu amharu ar –
- (a) iechyd corfforol neu iechyd meddwl, neu
  - (b) datblygiad corfforol, deallusol, emosiynol, cymdeithasol neu ymddygiadol,
- ac mewn achos pan fo'r niwed yn ymwneud ag amhariad ar iechyd neu ddatblygiad plentyn, mae iechyd neu ddatblygiad y plentyn i'w gymharu â'r hyn y gellid ei ddisgwyl yn rhesymol oddi wrth blentyn tebyg.

*Gweithredu ar frys*

**23 Canslo neu amrywio gwasanaethau neu fannau ar frys**

- (1) Caiff Gweinidogion Cymru wneud cais i ynad heddwch am orchymyn sy'n eu hawdurdodi –
- (a) i ganslo cofrestriad darparwr gwasanaeth, neu
  - (b) i amrywio cofrestriad darparwr gwasanaeth drwy ddileu o'r cofrestriad –
    - (i) gwasanaeth rheoleiddiedig, neu
    - (ii) man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef.
- (2) Ni chaiff Gweinidogion Cymru wneud cais am orchymyn o dan is-adran (1) ond ar y sail, oni bai bod y cofrestriad yn cael ei ganslo neu ei amrywio –
- (a) bod perygl difrifol i –
    - (i) bywyd person, neu
    - (ii) iechyd corfforol neu iechyd meddwl person, neu
  - (b) bod perygl difrifol bod person yn dioddef camdriniaeth neu esgeulustod.
- (3) Cyn gynted ag y bo'n ymarferol ar ôl gwneud cais o dan is-adran (1) rhaid i Weinidogion Cymru hysbysu –
- (a) pob awdurdod lleol a Bwrdd Iechyd Lleol y mae'r darparwr gwasanaeth yn darparu gwasanaeth rheoleiddiedig yn ei ardal, a

- (7) A notice of cancellation must be given to—
  - (a) the responsible individual, and
  - (b) the service provider who designated the individual.
- (8) An individual ceases to be designated as a responsible individual when the notice of cancellation is given to the service provider.
- (9) A notice of cancellation must—
  - (a) give reasons for the decision,
  - (b) explain the right of appeal conferred by section 26,
  - (c) explain the requirement on the service provider to apply for variation of registration (see section 11(1)(c)), and
  - (d) state the time limit prescribed under section 11(2) (prescribed time limit for applying to designate a new responsible individual).
- (10) In subsection (6), “harm” means abuse or impairment of—
  - (a) physical or mental health, or
  - (b) physical, intellectual, emotional, social or behavioural development,and in a case where the harm relates to the impairment of a child’s health or development, the child’s health or development is to be compared with that which could reasonably be expected of a similar child.

*Urgent action*

**23 Urgent cancellation or variation of services or places**

- (1) The Welsh Ministers may apply to a justice of the peace for an order authorising them—
  - (a) to cancel the registration of a service provider, or
  - (b) to vary the registration of a service provider by removing from the registration—
    - (i) a regulated service, or
    - (ii) a place at, from or in relation to which the provider is providing a regulated service.
- (2) The Welsh Ministers may apply for an order under subsection (1) only on the ground that unless the registration is cancelled or varied there is a serious risk—
  - (a) to a person’s—
    - (i) life, or
    - (ii) physical or mental health, or
  - (b) of a person suffering from abuse or neglect.
- (3) As soon as practicable after making an application under subsection (1) the Welsh Ministers must notify—
  - (a) each local authority and Local Health Board in whose area the service provider provides a regulated service, and

- (b) unrhyw berson arall y mae'n briodol ei hysbysu ym marn Gweinidogion Cymru.
- (4) Dim ond os yw'r ynad heddwch wedi ei fodloni o ran y sail y gwnaeth Gweinidogion Cymru y cais arni y caiff yr ynad wneud y gorchymyn.
- (5) Caniateir i orchymyn o dan yr adran hon gael ei wneud yn absenoldeb y darparwr gwasanaeth y mae'n ymwneud ag ef os yw'r ynad heddwch wedi ei fodloni –
  - (a) bod Gweinidogion Cymru wedi cymryd pob cam rhesymol i hysbysu'r darparwr gwasanaeth am eu bwriad i wneud cais am orchymyn o dan yr adran hon, neu
  - (b) nad yw'n briodol cymryd unrhyw gamau o'r fath.
- (6) Mae gorchymyn a wneir o dan yr adran hon yn cael effaith –
  - (a) cyn gynted ag y caiff y gorchymyn ei wneud, neu
  - (b) ar unrhyw adeg arall sy'n briodol ym marn yr ynad heddwch.
- (7) Yn benodol, caiff yr ynad heddwch bennu bod y gorchymyn i beidio â chymryd effaith hyd nes yr adeg ar ôl rhoi'r hysbysiad o dan adran 24(1) sy'n briodol ym marn yr ynad heddwch.

#### **24 Canslo neu amrywio ar frys: hysbysiadau ac apelau**

- (1) Cyn gynted ag y bo'n ymarferol ar ôl i orchymyn gael ei wneud o dan adran 23 rhaid i Weinidogion Cymru roi hysbysiad i'r darparwr gwasanaeth y mae'r gorchymyn yn ymwneud ag ef sy'n esbonio –
  - (a) telerau'r gorchymyn, a
  - (b) yr hawl i apelio a roddir gan is-adran (2).
- (2) Heb fod yn hwyrach na 14 o ddiwrnodau ar ôl y diwrnod y rhoddir yr hysbysiad a roddir o dan is-adran (1), caiff y darparwr gwasanaeth apelio i'r tribiwnlys yn erbyn gwneud y gorchymyn.
- (3) Ond caiff y tribiwnlys ganiatáu i apêl gael ei gwneud ar ôl i'r cyfnod hwnnw o 14 o ddiwrnodau ddod i ben os yw wedi ei fodloni bod rheswm da dros y methiant i apelio cyn i'r cyfnod hwnnw ddod i ben (a thros unrhyw oedi wrth wneud cais am ganiatâd i apelio ar ôl yr amser priodol).
- (4) Ar apêl o dan is-adran (2), caiff y tribiwnlys –
  - (a) cadarnhau'r gorchymyn;
  - (b) dirymu'r gorchymyn;
  - (c) gwneud unrhyw orchymyn arall (gan gynnwys gorchymyn interim) sy'n briodol ym marn y tribiwnlys.
- (5) Caiff gorchymyn interim gan y tribiwnlys, ymhlith pethau eraill, atal dros dro effaith gorchymyn a wneir o dan adran 23 am gyfnod a bennir gan y tribiwnlys.

- (b) any other person the Welsh Ministers think it appropriate to notify.
- (4) The justice of the peace may make the order only if the justice is satisfied as to the ground on which the Welsh Ministers made the application.
- (5) An order under this section may be made in the absence of the service provider to whom it relates if the justice of the peace is satisfied that –
  - (a) the Welsh Ministers have taken all reasonable steps to notify the service provider of their intention to apply for an order under this section, or
  - (b) it is not appropriate to take any such steps.
- (6) An order made under this section has effect –
  - (a) as soon as it is made, or
  - (b) at such other time as the justice of the peace thinks appropriate.
- (7) In particular, the justice of the peace may specify that the order is not to take effect until such time following the giving of notice under section 24(1) as the justice thinks appropriate.

**24 Urgent cancellation or variation: notification and appeals**

- (1) As soon as is practicable after an order is made under section 23 the Welsh Ministers must give a notice to the service provider to whom the order relates explaining –
  - (a) the terms of the order, and
  - (b) the right of appeal conferred by subsection (2).
- (2) No later than 14 days after the day on which the notice given under subsection (1) is given, the service provider may appeal to the tribunal against the making of the order.
- (3) But the tribunal may allow an appeal to be made after the expiry of that 14 day period if it is satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).
- (4) On an appeal under subsection (2), the tribunal may –
  - (a) confirm the order;
  - (b) revoke the order;
  - (c) make such other order (including an interim order) as the tribunal thinks appropriate.
- (5) An interim order of the tribunal may, among other things, suspend the effect of an order made under section 23 for such period as the tribunal may specify.



**25 Amrywio cofrestriad ar frys: amodau eraill**

- (1) Mae'r adran hon yn gymwys pan fo Gweinidogion Cymru yn meddwl oni bai eu bod yn gweithredu o dan yr adran hon—
  - (a) bod perygl, neu y gall fod perygl, i—
    - (i) bywyd person, neu
    - (ii) iechyd corfforol neu iechyd meddwl person, neu
  - (b) bod perygl, neu y gall fod perygl, bod person yn dioddef camdriniaeth neu esgeulustod.
- (2) Caiff Gweinidogion Cymru roi hysbysiad o benderfyniad i ddarparwr gwasanaeth—
  - (a) sy'n amrywio amod a osodwyd o dan adran 7(3)(b), 12(2), 13(1) neu a osodwyd o'r blaen o dan yr adran hon, neu
  - (b) sy'n gosod amod y gellid bod wedi ei osod o dan unrhyw un neu ragor o'r adrannau hynny.
- (3) Mae hysbysiad o benderfyniad a roddir o dan is-adran (2) yn cymryd effaith ar y dyddiad y'i rhoddir.
- (4) Rhaid i hysbysiad o benderfyniad o dan is-adran (2)—
  - (a) datgan ei fod wedi ei roi o dan yr adran hon,
  - (b) pennu'r amod sydd i'w amrywio neu ei osod,
  - (c) rhoi rhesymau dros osod neu amrywio'r amod,
  - (d) esbonio'r hawl i gyflwyno sylwadau a roddir gan is-adran (5), ac
  - (e) esbonio'r hawl i apelio a roddir gan adran 26.
- (5) Caiff Gweinidogion Cymru amrywio neu ddileu amod a amrywir neu a osodir o dan is-adran (2) drwy roi hysbysiad pellach o benderfyniad i'r darparwr gwasanaeth, ond cyn gwneud hynny rhaid iddynt roi sylw i unrhyw sylwadau a gyflwynwyd iddynt gan y darparwr gwasanaeth ynghylch y hysbysiad a roddwyd o dan is-adran (2).
- (6) Mae hysbysiad o benderfyniad a roddir o dan is-adran (5) yn cymryd effaith ar y diwrnod y rhoddir yr hysbysiad.
- (7) Rhaid i hysbysiad o benderfyniad a roddir o dan is-adran (5)—
  - (a) datgan ei fod wedi ei roi o dan yr adran hon,
  - (b) pennu'r amod sydd i'w amrywio neu ei ddileu,
  - (c) rhoi rhesymau dros y penderfyniad, a
  - (d) esbonio'r hawl i apelio a roddir gan adran 26.

*Apelau***26 Apelau**

- (1) Mae apêl yn erbyn penderfyniad sydd wedi ei gynnwys mewn hysbysiad a roddir o dan adran 17(2), (3)(a) neu (5), 19(4), 22(5) neu (6) neu 25(2) neu (5) i'w gwneud i'r tribiwnlys.

## **25 Urgent variation of registration: other conditions**

- (1) This section applies where the Welsh Ministers think that unless they act under this section there is, or may be, a risk—
  - (a) to a person's—
    - (i) life, or
    - (ii) physical or mental health, or
  - (b) of a person suffering from abuse or neglect.
- (2) The Welsh Ministers may give a decision notice to a service provider—
  - (a) varying a condition imposed under section 7(3)(b), 12(2), 13(1) or previously imposed under this section, or
  - (b) imposing a condition that could have been imposed under any of those sections.
- (3) A decision notice given under subsection (2) takes effect on the day it is given.
- (4) A decision notice given under subsection (2) must—
  - (a) state that it is given under this section,
  - (b) specify the condition to be varied or imposed,
  - (c) give reasons for imposing or varying the condition,
  - (d) explain the right to make representations conferred by subsection (5), and
  - (e) explain the right of appeal conferred by section 26.
- (5) The Welsh Ministers may vary or remove a condition varied or imposed under subsection (2) by giving a further decision notice to the service provider, but before doing so they must have regard to any representations made to them by the service provider about the notice given under subsection (2).
- (6) A decision notice given under subsection (5) takes effect on the day it is given.
- (7) A decision notice given under subsection (5) must—
  - (a) state that it is given under this section,
  - (b) specify the condition to be varied or removed,
  - (c) give reasons for the decision, and
  - (d) explain the right of appeal conferred by section 26.

### *Appeals*

## **26 Appeals**

- (1) An appeal lies to the tribunal against a decision contained in a notice given under section 17(2), (3)(a) or (5), 19(4), 22(5) or (6) or 25(2) or (5).

- (2) Rhaid i apêl o dan is-adran (1) gael ei gwneud heb fod yn hwyrach nag 28 o ddiwrnodau ar ôl y dyddiad y rhoddir yr hysbysiad o benderfyniad.
- (3) Ond caiff y tribiwnlys ganiatáu i apêl gael ei gwneud ar ôl i'r cyfnod hwnnw o 28 o ddiwrnodau ddod i ben os yw wedi ei fodloni bod rheswm da dros y methiant i apelio cyn i'r cyfnod hwnnw ddod i ben (a thros unrhyw oedi wrth wneud cais am ganiatâd i apelio ar ôl yr amser priodol).
- (4) Ar apêl o dan is-adran (1), caiff y tribiwnlys –
  - (a) cadarnhau'r penderfyniad;
  - (b) cyfarwyddo nad yw'r penderfyniad i gymryd effaith (neu, os yw'r penderfyniad wedi cymryd effaith, cyfarwyddo bod y penderfyniad i beidio â chael effaith);
  - (c) rhoi penderfyniad arall y gallai Gweinidogion Cymru fod wedi ei wneud yn lle'r penderfyniad y gwneir apêl yn ei erbyn;
  - (d) gwneud unrhyw orchymyn arall (gan gynnwys gorchymyn interim) sy'n briodol ym marn y tribiwnlys.
- (5) Caiff gorchymyn interim, ymhlith pethau eraill, atal dros dro effaith penderfyniad am gyfnod a bennir gan y tribiwnlys.

*Rheoliadau a chanllawiau*

**27 Rheoliadau ynghylch gwasanaethau rheoleiddiedig**

- (1) Caiff Gweinidogion Cymru drwy reoliadau osod gofynion ar ddarparwr gwasanaeth mewn perthynas â gwasanaeth rheoleiddiedig.
- (2) Rhaid i ofynion a osodir gan reoliadau o dan is-adran (1) gynnwys gofynion o ran safon y gofal a'r cymorth sydd i'w darparu gan ddarparwr gwasanaeth.
- (3) Rhaid i Weinidogion Cymru, wrth wneud rheoliadau sy'n gosod gofynion o'r math a grybwyllir yn is-adran (2), roi sylw –
  - (a) i bwysigrwydd llesiant unrhyw unigolion y bydd gofal a chymorth yn cael eu darparu iddynt, a
  - (b) i'r safonau ansawdd sydd wedi eu cynnwys mewn unrhyw god a ddyroddir o dan adran 9 o Ddeddf 2014 (codau ar gyfer helpu i sicrhau canlyniadau a bennir mewn datganiadau llesiant).
- (4) Cyn gwneud rheoliadau o dan yr adran hon rhaid i Weinidogion Cymru –
  - (a) ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy, a
  - (b) cyhoeddi datganiad ynghylch yr ymgynghoriad.
- (5) Rhaid i Weinidogion Cymru osod copi o ddatganiad a gyhoeddir o dan is-adran (4)(b) gerbron Cynulliad Cenedlaethol Cymru.
- (6) Ond nid yw'r gofyniad i ymgynghori a chyhoeddi datganiad yn gymwys i reoliadau –
  - (a) sy'n diwygio rheoliadau eraill a wneir o dan yr adran hon, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

- (2) An appeal under subsection (1) must be made no later than 28 days after the date on which the decision notice is given.
- (3) But the tribunal may allow an appeal to be made after the expiry of that 28 day period if it is satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).
- (4) On an appeal under subsection (1), the tribunal may –
  - (a) confirm the decision;
  - (b) direct that the decision is not to take effect (or, if the decision has taken effect, direct that the decision is to cease to have effect);
  - (c) substitute for the decision appealed against another decision that the Welsh Ministers could have made;
  - (d) make such other order (including an interim order) as the tribunal thinks appropriate.
- (5) An interim order may, among other things, suspend the effect of a decision for such period as the tribunal may specify.

*Regulations and guidance*

**27 Regulations about regulated services**

- (1) The Welsh Ministers may by regulations impose requirements on a service provider in relation to a regulated service.
- (2) Requirements imposed by regulations under subsection (1) must include requirements as to the standard of care and support to be provided by a service provider.
- (3) The Welsh Ministers must, when making regulations imposing requirements of the kind mentioned in subsection (2), have regard to –
  - (a) the importance of the well-being of any individuals to whom care and support will be provided, and
  - (b) the quality standards included in any code issued under section 9 of the 2014 Act (codes to help achieve outcomes specified in well-being statements).
- (4) Before making regulations under this section the Welsh Ministers must –
  - (a) consult any persons they think appropriate, and
  - (b) publish a statement about the consultation.
- (5) The Welsh Ministers must lay a copy of a statement published under subsection (4)(b) before the National Assembly for Wales.
- (6) But the requirement to consult and publish a statement does not apply to regulations which –
  - (a) amend other regulations made under this section, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

**28 Rheoliadau ynghylch unigolion cyfrifol**

- (1) Caiff Gweinidogion Cymru drwy reoliadau osod gofynion ar unigolyn cyfrifol mewn perthynas â man y mae'r unigolyn wedi ei ddynodi mewn cysylltiad ag ef.
- (2) Caiff rheoliadau o dan is-adran (1) gynnwys darpariaeth sy'n ei gwneud yn ofynnol i unigolyn cyfrifol benodi unigolyn o ddisgrifiad rhagnodedig i reoli'r man y mae'r unigolyn cyfrifol wedi ei ddynodi mewn cysylltiad ag ef.
- (3) Caniateir i reoliadau o dan is-adran (1) wneud darpariaeth i swyddogaeth a roddir i unigolyn cyfrifol gan y rheoliadau gael ei dirprwyo i berson arall o dan amgylchiadau rhagnodedig yn unig ond ni chaiff darpariaeth o'r fath effeithio ar atebolrwydd neu gyfrifoldeb yr unigolyn cyfrifol am arfer y swyddogaeth.
- (4) Cyn gwneud rheoliadau o dan yr adran hon rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (5) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau—
  - (a) sy'n diwygio rheoliadau eraill a wneir o dan yr adran hon, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

**29 Canllawiau ynghylch rheoliadau o dan adrannau 27 a 28**

- (1) Rhaid i Weinidogion Cymru gyhoeddi canllawiau ynghylch—
  - (a) sut y caiff darparwyr gwasanaethau gydymffurfio â gofynion a osodir drwy reoliadau o dan adran 27(1) (gan gynnwys sut y caiff darparwyr gyrraedd unrhyw safonau ar gyfer darparu gwasanaeth rheoleiddiedig a bennir drwy reoliadau o'r fath);
  - (b) sut y caiff unigolion cyfrifol gydymffurfio â gofynion a osodir drwy reoliadau o dan adran 28(1).
- (2) Caiff Gweinidogion Cymru ddiwygio canllawiau a gyhoeddir o dan is-adran (1) a rhaid iddynt gyhoeddi'r canllawiau diwygiedig.
- (3) Rhaid i ddarparwyr gwasanaethau ac unigolion cyfrifol roi sylw i ganllawiau a gyhoeddir o dan yr adran hon.

**30 Rheoliadau ynghylch darparwyr gwasanaethau sydd wedi eu diddymu etc.**

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth—
  - (a) sy'n ei gwneud yn ofynnol i berson a benodir eu hysbysu am y penodiad hwnnw;
  - (b) i'r Rhan hon fod yn gymwys gydag addasiadau rhagnodedig i ddarparwyr gwasanaethau y mae person o'r fath wedi ei benodi mewn perthynas â hwy.
- (2) Yn is-adran (1) ystyr "person a benodir" yw person a benodir—
  - (a) yn dderbynydd neu'n dderbynydd gweinyddol o eiddo darparwr gwasanaeth sy'n gorff corfforaethol neu'n bartneriaeth;
  - (b) yn ddiddymwr, yn ddiddymwr dros dro neu'n weinyddwr i ddarparwr gwasanaeth sy'n gorff corfforaethol neu'n bartneriaeth;

**28 Regulations about responsible individuals**

- (1) The Welsh Ministers may by regulations impose requirements on a responsible individual in relation to a place in respect of which the individual is designated.
- (2) Regulations under subsection (1) may include provision requiring a responsible individual to appoint an individual of a prescribed description to manage the place in respect of which the responsible individual is designated.
- (3) Regulations under subsection (1) may make provision for a function conferred on a responsible individual by the regulations to be delegated to another person only in prescribed circumstances but such provision may not affect the liability or responsibility of the responsible individual for exercising the function.
- (4) Before making regulations under this section the Welsh Ministers must consult any persons they think appropriate.
- (5) But the requirement to consult does not apply to regulations which—
  - (a) amend other regulations made under this section, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

**29 Guidance about regulations under sections 27 and 28**

- (1) The Welsh Ministers must publish guidance about how—
  - (a) service providers may comply with requirements imposed by regulations under section 27(1) (including how providers may meet any standards for the provision of a regulated service specified by such regulations);
  - (b) responsible individuals may comply with requirements imposed by regulations under section 28(1).
- (2) The Welsh Ministers may revise guidance published under subsection (1) and must publish the revised guidance.
- (3) Service providers and responsible individuals must have regard to guidance published under this section.

**30 Regulations about service providers who are liquidated etc.**

- (1) The Welsh Ministers may by regulations make provision—
  - (a) requiring an appointed person to notify them of that appointment;
  - (b) for this Part to apply with prescribed modifications to service providers in relation to whom such a person has been appointed.
- (2) In subsection (1) “appointed person” means a person appointed as—
  - (a) a receiver or administrative receiver of the property of a service provider who is a body corporate or a partnership;
  - (b) a liquidator, provisional liquidator or administrator of a service provider who is a body corporate or a partnership;

- (c) yn ymddiriedolwr mewn methdaliad i ddarparwr gwasanaeth sy'n unigolyn neu'n bartneriaeth.

**31 Rheoliadau ynghylch darparwr gwasanaethau sydd wedi marw**

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth—
- i'r Rhan hon fod yn gymwys gydag addasiadau rhagnodedig pan fo darparwr gwasanaeth sy'n unigolyn wedi marw;
  - sy'n ei gwneud yn ofynnol i gynrychiolwyr personol unigolyn o'r fath hysbysu Gweinidogion Cymru am y farwolaeth.
- (2) Caiff rheoliadau o dan is-adran (1) yn benodol ddarparu i berson rhagnodedig nad yw'n ddarparwr gwasanaeth weithredu yn y rhinwedd honno am gyfnod rhagnodedig ac i'r cyfnod hwnnw gael ei estyn o dan amgylchiadau rhagnodedig.

**PENNOD 3**

**GWYBODAETH AC AROLYGIADAU**

**32 Pŵer i'w gwneud yn ofynnol i wybodaeth gael ei darparu**

- (1) Caiff Gweinidogion Cymru ei gwneud yn ofynnol i berson perthnasol ddarparu unrhyw wybodaeth iddynt sy'n ymwneud â gwasanaeth rheoleiddiedig y mae Gweinidogion Cymru yn meddwl ei bod yn angenrheidiol neu'n hwylus ei chael at ddibenion arfer eu swyddogaethau o dan Bennod 2 a'r Bennod hon o'r Rhan hon neu o dan adrannau 38 i 40.
- (2) Ond ni chaiff Gweinidogion Cymru ei gwneud yn ofynnol i berson ddarparu gwybodaeth os yw datgelu'r wybodaeth honno wedi ei wahardd drwy unrhyw ddeddfiad neu reol gyfreithiol arall.
- (3) At ddibenion is-adran (1), ystyr "person perthnasol" yw—
- darparwr gwasanaeth,
  - unigolyn cyfrifol,
  - person a gyflogir gan ddarparwr gwasanaeth neu sydd fel arall yn gweithio i ddarparwr gwasanaeth, a
  - unrhyw berson sydd wedi dal unrhyw un neu ragor o'r swyddi hynny.
- (4) Mae'r pŵer i'w gwneud yn ofynnol i wybodaeth gael ei darparu o dan is-adran (1) yn cynnwys—
- pŵer i'w gwneud yn ofynnol i gopiau gael eu darparu o unrhyw ddogfennau neu gofnodion (gan gynnwys cofnodion meddygol a chofnodion personol eraill), a
  - pŵer i'w gwneud yn ofynnol i'r wybodaeth gael ei darparu ar ffurf ddarllenadwy.

- (c) a trustee in bankruptcy of a service provider who is an individual or a partnership.

**31 Regulations about service providers who have died**

- (1) The Welsh Ministers may by regulations make provision—
  - (a) for this Part to apply with prescribed modifications where a service provider who is an individual has died;
  - (b) requiring the personal representatives of such an individual to notify the Welsh Ministers of the death.
- (2) Regulations under subsection (1) may in particular provide for a prescribed person who is not a service provider to act in that capacity for a prescribed period and for that period to be extended in prescribed circumstances.

**CHAPTER 3**

**INFORMATION AND INSPECTIONS**

**32 Power to require information**

- (1) The Welsh Ministers may require a relevant person to provide them with any information relating to a regulated service which the Welsh Ministers think necessary or expedient to obtain for the purposes of exercising their functions under Chapter 2 and this Chapter of this Part or under sections 38 to 40.
- (2) But the Welsh Ministers may not require a person to provide information if disclosure of that information is prohibited by any enactment or other rule of law.
- (3) For the purposes of subsection (1), “relevant person” means—
  - (a) a service provider,
  - (b) a responsible individual,
  - (c) a person employed by or otherwise working for a service provider, and
  - (d) any person who has held any of those positions.
- (4) The power to require information under subsection (1) includes—
  - (a) power to require copies of any documents or records (including medical and other personal records), and
  - (b) power to require the provision of information in legible form.



**33 Arolygiadau ac arolygwyr**

- (1) Yn y Rhan hon mae cyfeiriad at “arolygiad” yn gyfeiriad at arolygiad –
  - (a) o safon unrhyw ofal a chymorth a ddarperir gan ddarparwr gwasanaeth wrth ddarparu gwasanaeth rheoleiddiedig, wedi ei mesur mewn perthynas ag unrhyw ofynion a osodir gan reoliadau o dan adran 27(1) o ran safon y gofal a’r cymorth sydd i’w darparu;
  - (b) o drefniadaeth a chydgyssylltiad gwasanaethau rheoleiddiedig a ddarperir gan ddarparwr gwasanaeth.
- (2) Dim ond unigolyn sydd wedi ei awdurdodi gan Weinidogion Cymru (y cyfeirir ato yn y Rhan hon fel “arolygydd”) a gaiff gynnal arolygiad.
- (3) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ynghylch y cymwysterau a’r amodau eraill sydd i’w bodloni gan unigolyn y caniateir iddo fod yn arolygydd.
- (4) Rhaid i Weinidogion Cymru lunio a chyhoeddi cod ymarfer ynghylch y modd y mae arolygiadau i’w cynnal (gan gynnwys amllder arolygiadau).
- (5) Caiff Gweinidogion Cymru ddiwygio’r cod a rhaid iddynt gyhoeddi cod diwygiedig.
- (6) Rhaid i arolygydd roi sylw i’r cod wrth gynnal arolygiad.

**34 Pwerau arolygydd i fynd i mewn ac arolygu mangroedd**

- (1) At ddibenion cynnal arolygiad, caiff arolygydd fynd i mewn ac arolygu unrhyw fangre y mae gan yr arolygydd seiliau rhesymol dros gredu ei bod yn cael ei defnyddio (neu wedi ei defnyddio) –
  - (a) fel man y darperir (neu y darparwyd) gwasanaeth rheoleiddiedig ynddo neu ohono, neu
  - (b) mewn cysylltiad â darparu gwasanaeth rheoleiddiedig.
- (2) Ond ni chaiff arolygydd fynd i mewn ac arolygu mangre a ddefnyddir yn gyfan gwbl neu’n bennaf fel annedd breifat oni bai bod y meddiannydd yn cydsynio.
- (3) Pan fo arolygydd yn mynd i mewn i fangre at ddibenion cynnal arolygiad, rhaid i’r arolygydd, os gofynnir iddo wneud hynny gan unrhyw berson yn y fangre, gyflwyno dogfen sy’n dangos awdurdodiad yr arolygydd o dan adran 33.
- (4) Caiff yr arolygydd –
  - (a) edrych ar gyflwr y fangre a sut y caiff ei rheoli ac asesu llesiant unrhyw bersonau sy’n cael eu lletya yno neu sy’n cael gofal a chymorth yno;
  - (b) ei gwneud yn ofynnol –
    - (i) i’r rheolwr neu unrhyw berson arall yr ymddengys i’r arolygydd ei fod yn gyfrifol am reoli o ddydd i ddydd y gwasanaeth yn y fangre neu ohoni, neu

### **33 Inspections and inspectors**

- (1) In this Part a reference to an “inspection” is a reference to an inspection—
  - (a) of the standard of any care and support provided by a service provider in the course of providing a regulated service, measured in relation to any requirements imposed by regulations under section 27(1) as to the standard of care and support to be provided;
  - (b) of the organisation and co-ordination of regulated services provided by a service provider.
- (2) Only an individual authorised by the Welsh Ministers (referred to in this Part as an “inspector”) may carry out an inspection.
- (3) The Welsh Ministers may by regulations make provision about the qualifications and other conditions to be met by an individual who may be an inspector.
- (4) The Welsh Ministers must prepare and publish a code of practice about the manner in which inspections are to be carried out (including the frequency of inspections).
- (5) The Welsh Ministers may revise the code and must publish a revised code.
- (6) An inspector must have regard to the code when carrying out an inspection.

### **34 Powers of inspector to enter and inspect premises**

- (1) For the purposes of carrying out an inspection, an inspector may enter and inspect any premises which the inspector has reasonable grounds to believe is (or has been) used—
  - (a) as a place at or from which a regulated service is (or has been) provided, or
  - (b) in connection with the provision of a regulated service.
- (2) But an inspector may not enter and inspect premises used wholly or mainly as a private dwelling unless the occupier consents.
- (3) Where an inspector enters premises for the purposes of carrying out an inspection, the inspector must, if requested to do so by any person at the premises, produce a document showing the inspector’s authorisation under section 33.
- (4) The inspector may—
  - (a) examine the state and management of the premises and assess the well-being of any persons accommodated or receiving care and support there;
  - (b) require—
    - (i) the manager or any other person who appears to the inspector to be responsible for the day to day management of the service at or from the premises, or

- (ii) pan na fo'r gwasanaeth bellach yn cael ei ddarparu, i berson yr ymddengys i'r arolygydd fod ganddo gyfrifoldeb am reoli'r fangre o ddydd i ddydd, gyflwyno unrhyw ddogfennau neu gofnodion (gan gynnwys cofnodion meddygol a chofnodion personol eraill) y mae'r arolygydd yn meddwl y gallant fod yn berthnasol i'r ddarpariaeth o'r gwasanaeth rheoleiddiedig;
  - (c) arolygu unrhyw ddogfennau neu gofnodion (gan gynnwys cofnodion meddygol a chofnodion personol eraill) y mae'r arolygydd yn meddwl y gallant fod yn berthnasol i'r ddarpariaeth o'r gwasanaeth rheoleiddiedig a mynd â chopïau ohonynt;
  - (d) ymafael yn unrhyw ddogfen neu unrhyw beth arall y deuir o hyd iddo yn y fangre ac y mae gan yr arolygydd seiliau rhesymol dros gredu y gall fod yn dystiolaeth o fethiant i gydymffurfio ag unrhyw amod neu ofyniad arall a osodir yn rhinwedd y Rhan hon, a symud y ddogfen neu'r peth arall o dan sylw oddi yno;
  - (e) ei gwneud yn ofynnol—
    - (i) i'r rheolwr neu unrhyw berson arall yr ymddengys i'r arolygydd ei fod yn gyfrifol am reoli o ddydd i ddydd y gwasanaeth yn y fangre neu ohoni, neu
    - (ii) pan na fo'r gwasanaeth bellach yn cael ei ddarparu, i berson yr ymddengys i'r arolygydd fod ganddo gyfrifoldeb am reoli'r fangre o ddydd i ddydd, roi i'r arolygydd unrhyw gyfleusterau a chymorth y mae eu hangen er mwyn ei alluogi i gynnal yr arolygiad;
  - (f) cymryd unrhyw fesuriadau, tynnu unrhyw ffotograffau a gwneud unrhyw recordiadau y mae'r arolygydd yn meddwl eu bod yn angenrheidiol at ddiben cynnal yr arolygiad.
- (5) Mae'r pwerau yn is-adran (4)(b) i (d) yn cynnwys y pŵer—
- (a) i gael mynediad i unrhyw gyfrifiadur a chyfarpar cysylltiedig y mae gan yr arolygydd seiliau rhesymol dros gredu eu bod yn cael eu defnyddio (neu wedi cael eu defnyddio) mewn cysylltiad â'r dogfennau neu'r cofnodion a gwirio gweithrediad unrhyw gyfrifiadur a chyfarpar cysylltiedig o'r fath, a
  - (b) i'w gwneud yn ofynnol i ddogfennau neu gofnodion gael eu cyflwyno ar ffurf sy'n ddarllenadwy ac yn gludadwy.
- (6) Mae "mangre" yn cynnwys cerbyd.

### 35 Pwerau arolygydd i gyf-weld â phersonau a chynnal archwiliad ohonynt

- (1) Os yw arolygydd yn meddwl ei bod yn angenrheidiol neu'n hwylus at ddibenion cynnal arolygiad, caiff yr arolygydd ei gwneud yn ofynnol i unrhyw berson gael ei gyf-weld yn breifat gan yr arolygydd.
- (2) Ond ni chaiff arolygydd gyf-weld yn breifat â pherson sy'n dod o fewn is-adran (3) heb gydsyniad y person.

- (ii) where the service is no longer being provided, a person who appears to the inspector to have responsibility for the day to day management of the premises,  
to produce any documents or records (including medical and other personal records) that the inspector thinks may be relevant to the provision of the regulated service;
  - (c) inspect and take copies of any documents or records (including medical and other personal records) that the inspector thinks may be relevant to the provision of the regulated service;
  - (d) seize and remove any document or other thing found at the premises which the inspector has reasonable grounds to believe may be evidence of a failure to comply with any condition or other requirement imposed by virtue of this Part;
  - (e) require—
    - (i) the manager or any other person who appears to the inspector to be responsible for the day to day management of the service at or from the premises, or
    - (ii) where the service is no longer being provided, a person who appears to the inspector to have responsibility for the day to day management of the premises,  
to afford the inspector such facilities and assistance as are necessary to enable the inspector to carry out the inspection;
  - (f) take such measurements and photographs and make such recordings as the inspector thinks necessary for the purpose of carrying out the inspection.
- (5) The powers in subsection (4)(b) to (d) include the power to—
- (a) gain access to and check the operation of any computer and associated apparatus which the inspector has reasonable grounds to believe is (or has been) used in connection with the documents or records, and
  - (b) require documents or records to be produced in a form which is legible and portable.
- (6) “Premises” includes a vehicle.

### **35 Powers of inspector to interview and examine persons**

- (1) If an inspector thinks it necessary or expedient for the purposes of carrying out an inspection, the inspector may require any person to be interviewed by the inspector in private.
- (2) But an inspector may not interview in private a person falling within subsection (3) without the person’s consent.

- (3) Mae'r personau a ganlyn yn dod o fewn yr is-adran hon –
- person y mae'r darparwr gwasanaeth yn darparu (neu wedi darparu) gofal a chymorth iddo;
  - unigolyn a chanddo gyfrifoldeb rhiant dros y person;
  - perthynas i'r person;
  - gofalwr y person;
  - rhoddai atwrneiaeth arhosol dros y person.
- (4) Caiff arolygydd gynnal archwiliad preifat o berson y mae'r darparwr gwasanaeth yn darparu (neu wedi darparu) gofal a chymorth iddo –
- os yw'r arolygydd yn ymarferydd meddygol cofrestredig neu'n nyrs gofrestredig,
  - os yw'r arolygydd yn meddwl bod yr archwiliad yn angenrheidiol neu'n hwylus at ddibenion asesu effaith unrhyw ofal a chymorth o'r fath ar lesiant y person, ac
  - os yw'r person yn cydsynio i'r archwiliad.
- (5) At ddibenion is-adrannau (1) a (4), mae cyfweliad neu archwiliad i'w drin fel pe bai wedi ei gynnal yn breifat er gwaethaf presenoldeb trydydd parti –
- os yw'r person y cyfwelir ag ef neu y cynhelir archwiliad ohono yn dymuno i'r trydydd parti fod yn bresennol ac nad yw'r arolygydd yn gwrthwynebu, neu
  - os yw'r arolygydd yn dymuno i'r trydydd parti fod yn bresennol a bod y person y cyfwelir ag ef neu y cynhelir archwiliad ohono yn cydsynio.
- (6) Pan fo arolygydd yn cynnal cyfweliad neu archwiliad o dan yr adran hon, rhaid i'r arolygydd, os gofynnir iddo wneud hynny gan –
- y person y cyfwelir ag ef neu y cynhelir archwiliad ohono, neu
  - unigolyn sy'n dod gyda'r person hwnnw,
- gyflwyno dogfen sy'n dangos awdurdodiad yr arolygydd o dan adran 33 ac, yn achos archwiliad, ddogfen sy'n dangos bod yr arolygydd yn ymarferydd meddygol cofrestredig neu'n nyrs gofrestredig.

- (7) Yn yr adran hon –

mae i "cyfrifoldeb rhiant" yr ystyr a roddir i "parental responsibility" gan adran 3 o Ddeddf Plant 1989 (p.41);

mae i "gofalwr" ("carer") yr ystyr a roddir gan adran 3 o Ddeddf 2014;

ystyr "perthynas" ("relative"), mewn perthynas â pherson, yw rhiant, tad-cu/taid, mam-gu/nain, plentyn, wŷr, wyres, brawd, hanner brawd, chwaer, hanner chwaer, ewythr, modryb, nai neu nith y person hwnnw (gan gynnwys unrhyw berson sydd yn y berthynas honno neu sydd wedi bod yn y berthynas honno yn rhinwedd priodas neu bartneriaeth sifil neu berthynas deuluol barhaus);

ystyr "plentyn" ("child") yw person sydd o dan 18 oed;

mae i "rhoddai atwrneiaeth arhosol" yr un ystyr â "donee of a lasting power of attorney" yn Rhan 1 o Ddeddf Galluedd Meddyliol 2005 (p.9).

- (3) The following persons fall within this subsection—
- (a) a person to whom the service provider provides (or has provided) care and support;
  - (b) an individual with parental responsibility for the person;
  - (c) a relative of the person;
  - (d) the person’s carer;
  - (e) a donee of a lasting power of attorney over the person.
- (4) An inspector may examine in private a person to whom the service provider provides (or has provided) care and support if—
- (a) the inspector is a registered medical practitioner or registered nurse,
  - (b) the inspector thinks the examination is necessary or expedient for the purposes of assessing the effect of any such care and support on the well-being of the person, and
  - (c) the person consents to the examination.
- (5) For the purposes of subsections (1) and (4), an interview or examination is to be treated as conducted in private despite the presence of a third party if—
- (a) the person being interviewed or examined wants the third party to be present and the inspector does not object, or
  - (b) the inspector wants the third party to be present and the person being interviewed or examined consents.
- (6) Where an inspector conducts an interview or examination under this section, the inspector must, if requested to do so by—
- (a) the person being interviewed or examined, or
  - (b) an individual accompanying that person,
- produce a document showing the inspector’s authorisation under section 33 and, in the case of an examination, a document showing that the inspector is a registered medical practitioner or registered nurse.
- (7) In this section—
- “carer” (“*gofalwr*”) has the meaning given by section 3 of the 2014 Act;
  - “child” (“*plentyyn*”) means a person who is aged under 18;
  - “donee of a lasting power of attorney” (“*rhoddai atwrneiaeth arhosol*”) has the same meaning as in Part 1 of the Mental Capacity Act 2005 (c.9);
  - “parental responsibility” (“*cyfrifoldeb rhiant*”) has the meaning given by section 3 of the Children Act 1989 (c.41);
  - “relative” (“*perthynas*”), in relation to a person, means that person’s parent, grandparent, child, grandchild, brother, half-brother, sister, half-sister, uncle, aunt, nephew or niece (including any person who is or has been in that relationship by virtue of a marriage or civil partnership or an enduring family relationship).

**36 Adroddiadau arolygu**

- (1) Cyn gynted ag y bo'n rhesymol ymarferol ar ôl i arolygiad gael ei gynnal, rhaid i Weinidogion Cymru lunio adroddiad ar yr arolygiad ac anfon copi ohono at y darparwr gwasanaeth.
- (2) Rhaid i adroddiad gynnwys –
  - (a) asesiad o safon unrhyw ofal a chymorth a ddarperir (neu a oedd wedi eu darparu) gan y darparwr gwasanaeth, wedi ei mesur mewn perthynas ag unrhyw ofynion a osodir gan reoliadau o dan adran 27(1) o ran safon y gofal a'r cymorth sydd i'w darparu,
  - (b) asesiad o effaith unrhyw ofal a chymorth o'r fath ar lesiant personau y darperir (neu y darparwyd) y gofal a'r cymorth iddynt,
  - (c) asesiad o drefniadaeth a chydgyssylltiad gwasanaethau rheoleiddiedig a ddarperir (neu a oedd wedi eu darparu) gan y darparwr gwasanaeth, a
  - (d) os gwneir rheoliadau o dan adran 37, y radd sydd wedi ei rhoi i'r darparwr gwasanaeth.
- (3) Rhaid i Weinidogion Cymru –
  - (a) cyhoeddi pob adroddiad a lunnir o dan is-adran (1);
  - (b) sicrhau bod copïau yn cael eu rhoi ar gael i'w harolygu yn y manau ac yn y modd sy'n briodol ym marn Gweinidogion Cymru;
  - (c) anfon copi o adroddiad a lunnir o dan is-adran (1) at unrhyw berson sy'n gofyn am gopi.

**37 Graddau arolygu**

- (1) Caiff Gweinidogion Cymru, drwy reoliadau, wneud darpariaeth ynghylch graddau y caniateir iddynt gael eu rhoi mewn perthynas ag ansawdd y gofal a'r cymorth a ddarperir gan ddarparwr gwasanaeth sydd wedi cael ei arolygu.
- (2) O ran rheoliadau o dan is-adran (1) –
  - (a) cânt wneud darpariaeth sy'n ei gwneud yn ofynnol i ddarparwr gwasanaeth arddangos gradd sydd wedi ei chynnwys mewn adroddiad a lunnir o dan adran 36(1) yn y modd, ac yn y man, a bennir gan y rheoliadau,
  - (b) caniateir iddynt bennu meini prawf i'w cymhwyso wrth benderfynu ar radd, ac
  - (c) rhaid iddynt gynnwys darpariaeth i ddarparwr gwasanaeth apelio yn erbyn gradd sydd wedi ei chynnwys mewn adroddiad a lunnir o dan is-adran 36(1).
- (3) Cyn gwneud rheoliadau o dan is-adran (1) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (4) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau –
  - (a) sy'n diwygio rheoliadau eraill a wneir o dan yr is-adran honno, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

### **36 Inspection reports**

- (1) As soon as is reasonably practicable after an inspection has been carried out, the Welsh Ministers must prepare a report of the inspection and send a copy of it to the service provider.
- (2) A report must include –
  - (a) an assessment of the standard of any care and support provided (or which had been provided) by the service provider, measured in relation to any requirements imposed by regulations under section 27(1) as to the standard of care and support to be provided,
  - (b) an assessment of the effect of any such care and support on the well-being of persons to whom the care and support is (or had been) provided,
  - (c) an assessment of the organisation and co-ordination of regulated services provided (or which had been provided) by the service provider, and
  - (d) if regulations are made under section 37, a rating of the service provider.
- (3) The Welsh Ministers must –
  - (a) publish each report prepared under subsection (1);
  - (b) ensure that copies are made available for inspection at such places and by such means as the Welsh Ministers think appropriate;
  - (c) send a copy of a report prepared under subsection (1) to any person who requests one.

### **37 Inspection ratings**

- (1) The Welsh Ministers may by regulations make provision about ratings that may be given in relation to the quality of care and support provided by a service provider who has been inspected.
- (2) Regulations under subsection (1) –
  - (a) may make provision requiring a service provider to display a rating included in a report prepared under section 36(1) in such manner, and at such place, as the regulations may specify,
  - (b) may specify criteria to be applied when arriving at a rating, and
  - (c) must include provision for a service provider to appeal against a rating included in a report prepared under section 36(1).
- (3) Before making regulations under subsection (1) the Welsh Ministers must consult any persons they think appropriate.
- (4) But the requirement to consult does not apply to regulations which –
  - (a) amend other regulations made under that subsection, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.



## PENNOD 4

### SWYDDOGAETHAU CYFFREDINOL

#### 38 Cofrestr o ddarparwyr gwasanaethau

- (1) Rhaid i Weinidogion Cymru gynnal cofrestr o ddarparwyr gwasanaethau.
- (2) Rhaid i gofnod yn y gofrestr mewn cysylltiad â darparwr gwasanaeth ddangos yr wybodaeth a ganlyn –
  - (a) y gwasanaethau rheoleiddiedig y mae'r darparwr gwasanaeth wedi ei gofrestru i'w darparu;
  - (b) y manau y mae'r darparwr wedi ei gofrestru i ddarparu'r gwasanaethau hynny ynddynt, ohonynt neu mewn perthynas â hwy;
  - (c) enw'r unigolyn cyfrifol sydd wedi ei gofrestru mewn cysylltiad â phob man o'r fath;
  - (d) y dyddiad y cymerodd cofrestriad y darparwr effaith mewn cysylltiad â phob gwasanaeth rheoleiddiedig o'r fath a phob man o'r fath;
  - (e) manylion unrhyw amodau eraill a osodir ar gofrestriad y darparwr gwasanaeth;
  - (f) crynodeb o unrhyw adroddiad arolygu sy'n ymwneud â'r darparwr gwasanaeth sydd wedi ei gyhoeddi o dan adran 36(3)(a);
  - (g) unrhyw wybodaeth arall a ragnodir.
- (3) Rhaid i Weinidogion Cymru gyhoeddi'r gofrestr a'i rhoi ar gael i'r cyhoedd edrych arni yn rhad ac am ddim, yn y modd, ac ar yr adegau, sy'n briodol yn eu barn hwy (ond gweler is-adran (5)(a)).
- (4) Rhaid i Weinidogion Cymru gydymffurfio ag unrhyw gais rhesymol a wneir gan berson i gael copi o'r gofrestr neu ddarn ohoni (ond gweler is-adran (5)(b)).
- (5) Caiff Gweinidogion Cymru –
  - (a) hepgor gwybodaeth ragnodedig o'r gofrestr a gyhoeddwyd mewn amgylchiadau rhagnodedig;
  - (b) gwrthod cydymffurfio â chais a wneir o dan is-adran (4) mewn amgylchiadau rhagnodedig.

#### 39 Hysbysu awdurdodau lleol am gamau penodol a gymerir o dan y Rhan hon

- (1) Rhaid i Weinidogion Cymru hysbysu pob awdurdod lleol am –
  - (a) canslo cofrestriad darparwr gwasanaeth;
  - (b) amrywio cofrestriad darparwr gwasanaeth drwy ddileu o'r cofrestriad –
    - (i) gwasanaeth rheoleiddiedig, neu
    - (ii) man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn perthynas ag ef;
  - (c) gwneud gorchymyn gan ynad heddwch o dan adran 23 (canslo ar frys neu amrywio ar frys drwy ddileu gwasanaeth neu fan);

## CHAPTER 4

### GENERAL FUNCTIONS

#### 38 Register of service providers

- (1) The Welsh Ministers must maintain a register of service providers.
- (2) An entry in the register in respect of a service provider must show the following information—
  - (a) the regulated services that the service provider is registered to provide;
  - (b) the places at, from or in relation to which the provider is registered to provide those services;
  - (c) the name of the responsible individual registered in respect of each such place;
  - (d) the date on which the provider's registration took effect in respect of each such regulated service and place;
  - (e) details of any other conditions imposed on the service provider's registration;
  - (f) a summary of any inspection report relating to the service provider which has been published under section 36(3)(a);
  - (g) such other information as may be prescribed.
- (3) The Welsh Ministers must publish the register and make it available for public inspection free of charge, in such manner, and at such times, as they think appropriate (but see subsection (5)(a)).
- (4) The Welsh Ministers must comply with any reasonable request made by a person for a copy of, or an extract from, the register (but see subsection (5)(b)).
- (5) The Welsh Ministers may—
  - (a) omit prescribed information from the published register in prescribed circumstances;
  - (b) refuse to comply with a request made under subsection (4) in prescribed circumstances.

#### 39 Notifying local authorities of certain action taken under this Part

- (1) The Welsh Ministers must notify each local authority of—
  - (a) the cancellation of the registration of a service provider;
  - (b) the variation of the registration of a service provider by removing from the registration—
    - (i) a regulated service, or
    - (ii) a place at, from or in relation to which the provider is providing a regulated service;
  - (c) the making of an order by a justice of the peace under section 23 (urgent cancellation or variation by removing a service or place);

- (d) canslo dynodiad unigolyn cyfrifol o dan adran 22;
  - (e) achosion sy'n cael eu dwyn yn erbyn person mewn cysylltiad â throedd o dan y Rhan hon neu o dan reoliadau a wneir odani;
  - (f) hysbysiad cosb a roddir o dan adran 52;
  - (g) unrhyw beth arall a all ddigwydd yn rhinwedd y Rhan hon neu reoliadau a wneir odani a ragnodir.
- (2) Rhaid i hysbysiad o dan yr adran hon gynnwys unrhyw wybodaeth arall a ragnodir.
- (3) Yn is-adran (1) mae'r cyfeiriad at "awdurdod lleol" yn cynnwys cyfeiriad at—
- (a) cyngor sir yn Lloegr,
  - (b) cyngor dosbarth ar gyfer ardal yn Lloegr nad oes cyngor sir ar ei chyfer,
  - (c) cyngor bwrdeistref yn Llundain,
  - (d) Cyngor Cyffredin Dinas Llundain, ac
  - (e) Cyngor Ynysoedd Scilly.

#### 40 Codi ffioedd

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth sy'n ei gwneud yn ofynnol i ffi gael ei thalu gan berson—
- (a) sy'n gwneud cais i gofrestru fel darparwr gwasanaeth (gweler adran 6);
  - (b) sy'n gwneud cais i amrywio cofrestriad (gweler adran 11);
  - (c) er mwyn ei ganiatáu i barhau i gael ei gofrestru fel darparwr gwasanaeth am gyfnod a bennir yn y rheoliadau;
  - (d) i gael copi o adroddiad arolygu (gweler adran 36(3)(c));
  - (e) i gael copi o'r gofrestr a gyhoeddir o dan adran 38(3), neu ddarn ohoni.
- (2) Caiff rheoliadau o dan is-adran (1) gynnwys darpariaeth—
- (a) sy'n pennu swm unrhyw ffi neu sy'n caniatáu i Weinidogion Cymru benderfynu ar swm unrhyw ffi (yn ddarostyngedig i unrhyw derfynau neu ffactorau eraill a bennir yn y rheoliadau);
  - (b) sy'n pennu amgylchiadau pan na fo ffi, a fyddai fel arall yn daladwy o dan y rheoliadau, yn daladwy;
  - (c) sy'n pennu'r amser ar gyfer talu ffi neu sy'n pennu'r ffactorau ar gyfer penderfynu ar yr amser hwnnw gan Weinidogion Cymru;
  - (d) ynghylch canlyniadau methu â thalu ffi (a gaiff gynnwys gwrthod cofrestriad, neu ganslo cofrestriad).
- (3) Cyn gwneud rheoliadau o dan is-adran (1) rhaid i Weinidogion Cymru gymryd camau rhesymol i ymgynghori—
- (a) â phersonau y mae Gweinidogion Cymru yn meddwl y gall fod yn ofynnol iddynt dalu ffi yn rhinwedd y rheoliadau, a
  - (b) ag unrhyw bersonau arall sy'n briodol yn eu barn hwy.

- (d) the cancellation of a designation of a responsible individual under section 22;
  - (e) proceedings brought against a person in respect of an offence under this Part or under regulations made under it;
  - (f) a penalty notice given under section 52;
  - (g) any other thing that may occur by virtue of this Part or regulations made under it as may be prescribed.
- (2) A notification under this section must contain such other information as may be prescribed.
- (3) In subsection (1) the reference to “local authority” includes a reference to—
- (a) a county council in England,
  - (b) a district council for an area in England for which there is no county council,
  - (c) a London borough council,
  - (d) the Common Council of the City of London, and
  - (e) the Council of the Isles of Scilly.

#### **40 Charging fees**

- (1) The Welsh Ministers may by regulations make provision requiring a fee to be paid by a person—
- (a) making an application for registration as a service provider (see section 6);
  - (b) making an application to vary a registration (see section 11);
  - (c) to allow the person to continue to be registered as a service provider for such period as may be specified in the regulations;
  - (d) for a copy of an inspection report (see section 36(3)(c));
  - (e) for a copy of the register published under section 38(3), or an extract of it.
- (2) Regulations under subsection (1) may include provision—
- (a) specifying the amount of any fee or permitting the Welsh Ministers to determine the amount of any fee (subject to any limits or other factors as may be specified in the regulations);
  - (b) specifying circumstances in which a fee, which would otherwise be payable under the regulations, is not payable;
  - (c) specifying the time by which a fee is to be payable or specifying factors by which that time is to be determined by the Welsh Ministers;
  - (d) about the consequences of failing to pay a fee (which may include refusal to register, or cancellation of registration).
- (3) Before making regulations under subsection (1) the Welsh Ministers must take reasonable steps to consult—
- (a) persons who the Welsh Ministers think may be required to pay a fee by virtue of the regulations, and
  - (b) such other persons as they think appropriate.

- (4) Caniateir i ffi sy'n daladwy yn rhinwedd rheoliadau a wneir o dan is-adran (1), heb ragfarnu unrhyw fodd arall o adennill, gael ei hadennill yn ddiannod fel dyled sifil.

#### **41 Ymgysylltu â'r cyhoedd**

- (1) Rhaid i Weinidogion Cymru –
- (a) rhoi gwybodaeth am arfer eu swyddogaethau rheoleiddiol ar gael ar gyfer y cyhoedd, a
  - (b) llunio a chyhoeddi datganiad am eu polisi mewn cysylltiad â chynnwys y cyhoedd wrth arfer y swyddogaethau hynny (pa un ai drwy ymgynghoriad neu drwy ddulliau eraill).
- (2) O ran Gweinidogion Cymru –
- (a) cânt ddiwygio datganiad polisi a rhaid iddynt gyhoeddi'r datganiad diwygiedig, neu
  - (b) cânt gyhoeddi datganiad polisi newydd.
- (3) Rhaid i ddatganiad polisi (neu ddatganiad diwygiedig), yn benodol, ymdrin –
- (a) â chynnwys y cyhoedd mewn arolygiadau a gynhelir o dan Bennod 3, a
  - (b) â chynnwys gofalwyr (o fewn ystyr adran 3 o Ddeddf 2014) yn yr arferiad o swyddogaethau rheoleiddiol Gweinidogion Cymru.
- (4) Rhaid i Weinidogion Cymru osod copi o ddatganiad polisi a gyhoeddwyd (neu ddatganiad diwygiedig) gerbron Cynulliad Cenedlaethol Cymru.
- (5) Rhaid i Weinidogion Cymru roi sylw i'r datganiad polisi diweddaraf a gyhoeddwyd o dan yr adran hon wrth arfer eu swyddogaethau rheoleiddiol.

#### **42 Adroddiad blynyddol ar swyddogaethau rheoleiddiol**

- (1) Cyn gynted ag y bo'n rhesymol ymarferol ar ôl diwedd blwyddyn ariannol, rhaid i Weinidogion Cymru lunio a chyhoeddi adroddiad blynyddol ynghylch arfer eu swyddogaethau rheoleiddiol mewn cysylltiad â'r flwyddyn ariannol honno.
- (2) Rhaid i'r adroddiad blynyddol gynnwys manylion am y canlynol –
- (a) sut y mae Gweinidogion Cymru wedi arfer y swyddogaethau hynny yn ystod y flwyddyn,
  - (b) y graddau y maent, wrth arfer y swyddogaethau hynny –
    - (i) wedi cyflawni'r amcanion y cyfeirir atynt yn adran 4, a
    - (ii) wedi rhoi sylw i'r datganiad polisi diweddaraf a gyhoeddwyd o dan adran 41, ac
  - (c) sut yr effeithiodd y dyletswyddau a grybwyllir yn is-adran (4) ar arfer y swyddogaethau hynny yn ystod y flwyddyn.
- (3) Caiff yr adroddiad blynyddol gynnwys unrhyw wybodaeth arall sy'n briodol ym marn Gweinidogion Cymru.

- (4) A fee payable by virtue of regulations made under subsection (1) may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

#### **41 Engagement with the public**

- (1) The Welsh Ministers must –
  - (a) make information about the exercise of their regulatory functions available for the public, and
  - (b) prepare and publish a statement of their policy with respect to involving the public in the exercise of those functions (whether by consultation or other means).
- (2) The Welsh Ministers –
  - (a) may revise a statement of policy and must publish the revised statement, or
  - (b) may publish a new statement of policy.
- (3) A statement of policy (or revised statement) must, in particular, address –
  - (a) the involvement of the public in inspections carried out under Chapter 3, and
  - (b) the involvement of carers (within the meaning of section 3 of the 2014 Act) in the exercise of the Welsh Ministers’ regulatory functions.
- (4) The Welsh Ministers must lay a copy of a published statement of policy (or revised statement) before the National Assembly for Wales.
- (5) The Welsh Ministers must have regard to the most recent policy statement published under this section when exercising their regulatory functions.

#### **42 Annual report on regulatory functions**

- (1) As soon as is reasonably practicable after the end of a financial year, the Welsh Ministers must prepare and publish an annual report about the exercise of their regulatory functions in respect of that financial year.
- (2) The annual report must include details of –
  - (a) how the Welsh Ministers have exercised those functions during the year,
  - (b) the extent to which they have, in the exercise of those functions –
    - (i) achieved the objectives referred to in section 4, and
    - (ii) had regard to the most recent statement of policy published under section 41, and
  - (c) how the duties mentioned in subsection (4) affected the exercise of those functions during the year.
- (3) The annual report may include any other information the Welsh Ministers think appropriate.

- (4) Y dyletswyddau y cyfeirir atynt yn is-adran (2)(c) yw dyletswyddau Gweinidogion Cymru o dan—
- (a) adran 149 o Ddeddf Cydraddoldeb 2010 (p.15) (dyletswydd cydraddoldeb y sector cyhoeddus),
  - (b) adran 1(1) o Fesur Hawliau Plant a Phobl Ifanc (Cymru) 2011 (mccc 2) (dyletswydd i roi sylw dyledus i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn),
  - (c) adran 7(1) o Ddeddf 2014 (dyletswydd i roi sylw dyladwy i Egwyddorion y Cenhedloedd Unedig ar gyfer Pobl Hŷn wrth arfer swyddogaethau sy'n ymwneud â gwasanaethau cymdeithasol i oedolion), a
  - (d) Rhan 4 o Fesur y Gymraeg (Cymru) 2011 (mccc 1) (safonau).
- (5) Rhaid i Weinidogion Cymru osod copi o adroddiad blynyddol a gyhoeddwyd gerbron Cynulliad Cenedlaethol Cymru.

## PENNOD 5

### TROSEDDAU A CHOSBAU

#### 43 Methiant i gydymffurfio ag amod

- (1) Mae'n drosedd i ddarparwr gwasanaeth fethu â chydymffurfio ag unrhyw amod sy'n ymwneud â chofrestriad y darparwr sydd mewn grym am y tro yn rhinwedd y Rhan hon.
- (2) Ond nid yw darparwr gwasanaeth yn cyflawni trosedd o dan is-adran (1) drwy fethu â chael unigolyn cyfrifol wedi ei ddynodi mewn cysylltiad â man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo, ohono neu mewn cysylltiad ag ef—
  - (a) os nad yw'r terfyn amser a ragnodir o dan adran 11(2) wedi dod i ben (terfyn amser rhagnodedig ar gyfer gwneud cais i ddynodi unigolyn cyfrifol newydd), neu
  - (b) os yw'r terfyn amser hwnnw wedi dod i ben ond gwnaeth y darparwr gwasanaeth y cais am amrywiad o fewn y terfyn amser ac nad yw Gweinidogion Cymru wedi penderfynu arno.

#### 44 Disgrifiadau anwir

- (1) Mae'n drosedd i berson, gyda'r bwriad o dwyllo person arall—
  - (a) esgus bod yn ddarparwr gwasanaeth,
  - (b) esgus bod man yn un y mae gwasanaeth rheoleiddiedig yn cael ei ddarparu ynddo, ohono neu mewn perthynas ag ef, neu
  - (c) esgus bod yn unigolyn cyfrifol.
- (2) Caiff unrhyw un neu ragor o'r canlynol (ymhlith pethau eraill) fod yn weithred sy'n gyfystyr â throsedd o dan is-adran (1)—
  - (a) cymhwyso enw at wasanaeth neu fan i roi'r argraff ei fod wedi ei bennu yng nghofrestriad darparwr gwasanaeth pan nad yw hynny'n wir;

- (4) The duties referred to in subsection (2)(c) are the Welsh Ministers' duties under—
  - (a) section 149 of the Equality Act 2010 (c.15) (public sector equality duty),
  - (b) section 1(1) of the Rights of Children and Young Persons (Wales) Measure 2011 (nawm 2) (duty to have due regard to the United Nations Convention on the Rights of the Child),
  - (c) section 7(1) of the 2014 Act (duty to have due regard to the United Nations Principles for Older Persons when exercising functions relating to adult social services), and
  - (d) Part 4 of the Welsh Language (Wales) Measure 2011 (nawm 1) (standards).
- (5) The Welsh Ministers must lay a copy of a published annual report before the National Assembly for Wales.

## **CHAPTER 5**

### **OFFENCES AND PENALTIES**

#### **43 Failure to comply with a condition**

- (1) It is an offence for a service provider to fail to comply with any condition relating to the provider's registration which is for the time being in force by virtue of this Part.
- (2) But a service provider does not commit an offence under subsection (1) by failing to have a responsible individual designated in respect of a place at, from or in relation to which the provider provides a regulated service if—
  - (a) the time limit prescribed under section 11(2) has not expired (prescribed time limit for applying to designate a new responsible individual), or
  - (b) that time limit has expired but the service provider made the application for variation within the time limit and the Welsh Ministers have not made a decision on it.

#### **44 False descriptions**

- (1) It is an offence for a person to, with intent to deceive another—
  - (a) pretend to be a service provider,
  - (b) pretend that a place is one at, from or in relation to which a regulated service is provided, or
  - (c) pretend to be a responsible individual.
- (2) Any of the following may (among other things) be an act constituting an offence under subsection (1)—
  - (a) applying a name to a service or place to give the impression that it is specified in a service provider's registration when it is not;



- (b) disgrifio gwasanaeth neu fan mewn modd sy'n bwriadu rhoi'r argraff honno;
- (c) honni bod gwasanaeth yn wasanaeth rheoleiddiedig a bennir yng nghofrestriad darparwr gwasanaeth pan nad yw hynny'n wir;
- (d) honni bod man yn fan a bennir yng nghofrestriad darparwr gwasanaeth pan nad yw hynny'n wir;
- (e) gweithredu mewn modd sy'n rhoi'r argraff o fod yn unigolyn cyfrifol pan nad yw wedi ei ddynodi'n unigolyn o'r fath.

**45 Methiant gan ddarparwr gwasanaeth i gydymffurfio â gofynion mewn rheoliadau**

Caiff Gweinidogion Cymru drwy reoliadau ddarparu ei bod yn drosedd i ddarparwr gwasanaeth fethu â chydymffurfio â darpariaeth benodedig mewn rheoliadau a wneir o dan adran 27 neu 37(2)(a).

**46 Methiant gan unigolyn cyfrifol i gydymffurfio â gofynion mewn rheoliadau**

Caiff Gweinidogion Cymru drwy reoliadau ddarparu ei bod yn drosedd i unigolyn cyfrifol fethu â chydymffurfio â darpariaeth benodedig mewn rheoliadau a wneir o dan adran 28.

**47 Datganiadau anwir**

Mae'n drosedd i berson wneud datganiad y mae'r person yn gwybod ei fod yn anwir neu'n gamarweiniol mewn ffordd berthnasol mewn –

- (a) cais i gofrestru fel darparwr gwasanaeth,
- (b) cais i amrywio neu i ganslo cofrestriad,
- (c) datganiad blynyddol a gyflwynir o dan adran 10, neu
- (d) ymateb i ofyniad a osodir gan Weinidogion Cymru o dan adran 32(1) (gofyniad i ddarparu gwybodaeth).

**48 Methiant i gyflwyno datganiad blynyddol**

Mae'n drosedd i ddarparwr gwasanaeth fethu â chyflwyno datganiad blynyddol i Weinidogion Cymru o fewn y terfyn amser a ragnodir o dan adran 10(4).

**49 Methiant i ddarparu gwybodaeth**

- (1) Mae'n drosedd i berson fethu â chydymffurfio â gofyniad a osodir ar y person gan Weinidogion Cymru o dan adran 32(1).
- (2) Mae'n amddiffyniad i berson sydd wedi ei gyhuddo o drosedd o dan is-adran (1) ddangos bod ganddo esgus rhesymol dros fethu â chydymffurfio â'r gofyniad.

**50 Troseddau sy'n gysylltiedig ag arolygiadau**

- (1) Mae'n drosedd i berson –
  - (a) mynd ati'n fwriadol i rwystro arolygydd rhag arfer unrhyw swyddogaeth a roddir i arolygydd gan Bennod 3, neu

- (b) describing a service or place in a manner intended to give that impression;
- (c) holding a service out to be a regulated service specified in a service provider's registration when it is not;
- (d) holding a place out to be a place specified in a service provider's registration when it is not;
- (e) acting in a manner that gives the impression of being a responsible individual when not designated as one.

**45 Failure by service provider to comply with requirements in regulations**

The Welsh Ministers may by regulations provide that it is an offence for a service provider to fail to comply with a specified provision of regulations made under section 27 or 37(2)(a).

**46 Failure by responsible individual to comply with requirements in regulations**

The Welsh Ministers may by regulations provide that it is an offence for a responsible individual to fail to comply with a specified provision of regulations made under section 28.

**47 False statements**

It is an offence for a person to make a statement which the person knows is false or materially misleading in—

- (a) an application for registration as a service provider,
- (b) an application for variation or cancellation of registration,
- (c) an annual return submitted under section 10, or
- (d) responding to a requirement imposed by the Welsh Ministers under section 32(1) (requirement to provide information).

**48 Failure to submit annual return**

It is an offence for a service provider to fail to submit an annual return to the Welsh Ministers within the time limit prescribed under section 10(4).

**49 Failure to provide information**

- (1) It is an offence for a person to fail to comply with a requirement imposed on the person by the Welsh Ministers under section 32(1).
- (2) It is a defence for a person charged with an offence under subsection (1) to show that the person had a reasonable excuse for failing to comply with the requirement.

**50 Offences related to inspections**

- (1) It is an offence for a person to—
  - (a) intentionally obstruct an inspector exercising any function conferred on an inspector by Chapter 3, or

(b) methu â chydymffurfio ag unrhyw ofyniad a osodir ar y person gan arolygydd sy'n arfer swyddogaeth o'r fath.

(2) Mae'n amddiffyniad i berson sydd wedi ei gyhuddo o drosedd o dan is-adran (1)(b) ddangos bod ganddo esgus rhesymol dros fethu â chydymffurfio â'r gofyniad.

## **51 Cosbau ar gollfarn**

(1) Mae person sy'n euog o drosedd o dan adran 5, 43, 44, 47, 49 neu 50 neu o dan reoliadau a wneir o dan adran 45 neu 46 yn agored –

(a) ar gollfarn ddiannod, i ddirwy, neu i'w garcharu am dymor nad yw'n hwy na 6 mis, neu i'r ddau;

(b) ar gollfarn ar dditiad, i ddirwy, neu i'w garcharu am dymor nad yw'n hwy na 2 flynedd, neu i'r ddau.

(2) Mae person sy'n euog o drosedd o dan adran 48 yn agored ar gollfarn ddiannod i ddirwy.

## **52 Hysbysiadau cosb**

(1) Caiff Gweinidogion Cymru roi hysbysiad cosb i berson os ydynt wedi eu bodloni bod y person wedi cyflawni trosedd ragnodedig.

(2) Dim ond troseddau o dan adrannau 47, 48 neu 49 neu o dan reoliadau a wneir o dan adran 45 neu 46 y caniateir iddynt gael eu rhagnodi felly.

(3) Mae hysbysiad cosb yn hysbysiad sy'n cynnig y cyfle i'r person i ryddhau unrhyw atebolrwydd am gollfarn am y drosedd y mae'r hysbysiad yn ymwneud ag ef drwy dalu i Weinidogion Cymru swm a bennir yn yr hysbysiad yn unol â thelerau'r hysbysiad.

(4) Pan fo person yn cael hysbysiad cosb, ni chaniateir i achos am y drosedd y mae'r hysbysiad yn ymwneud â hi gael ei ddwyn cyn diwedd cyfnod a bennir yn yr hysbysiad.

(5) Os yw person sy'n cael hysbysiad cosb yn talu'r swm a bennir yn yr hysbysiad yn unol â thelerau'r hysbysiad, ni all y person gael ei gollfarnu o'r drosedd y mae'r hysbysiad yn ymwneud â hi.

(6) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth –

(a) o ran ffurf a chynnwys hysbysiadau cosb;

(b) o ran y swm sy'n daladwy o dan hysbysiad cosb a'r amser y mae'r swm i gael ei dalu ynddo (gan gynnwys darpariaeth sy'n caniatáu i swm gwahanol fod yn daladwy mewn perthynas â throseddau gwahanol ac yn unol â'r amser erbyn pryd y caiff y swm ei dalu);

(c) sy'n penderfynu ar y ffyrdd y caniateir i swm gael ei dalu ynddynt;

(d) o ran y cofnodion sydd i'w cadw mewn perthynas â hysbysiadau cosb;

(e) ynghylch yr amgylchiadau pan ganiateir i hysbysiad cosb gael ei dynnu'n ôl, gan gynnwys darpariaeth ynghylch –

(i) ad-dalu unrhyw swm a delir cyn y tynnir hysbysiad yn ôl, a

(ii) yr amgylchiadau pan na chaniateir i achos am drosedd gael ei ddwyn er bod hysbysiad wedi ei dynnu'n ôl.

(b) fail to comply with any requirement imposed on the person by an inspector exercising such a function.

(2) It is a defence for a person charged with an offence under subsection (1)(b) to show that the person had a reasonable excuse for failing to comply with the requirement.

## **51 Penalties upon conviction**

(1) A person guilty of an offence under section 5, 43, 44, 47, 49 or 50 or under regulations made under section 45 or 46 is liable –

(a) on summary conviction, to a fine, or to imprisonment for a term not exceeding 6 months, or to both;

(b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.

(2) A person guilty of an offence under section 48 is liable on summary conviction to a fine.

## **52 Penalty notices**

(1) The Welsh Ministers may give a penalty notice to a person if they are satisfied that the person has committed a prescribed offence.

(2) Only offences under sections 47, 48 or 49 or under regulations made under section 45 or 46 may be so prescribed.

(3) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence to which the notice relates by payment to the Welsh Ministers of a sum specified in the notice in accordance with the terms of the notice.

(4) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be brought before the end of such period as may be specified in the notice.

(5) If a person who is given a penalty notice pays the sum specified in the notice in accordance with the terms of the notice, the person cannot be convicted of the offence to which the notice relates.

(6) The Welsh Ministers may by regulations make provision –

(a) as to the form and content of penalty notices;

(b) as to the sum payable under a penalty notice and the time within which it is to be paid (including provision permitting a different sum to be payable in relation to different offences and according to the time by which it is paid);

(c) determining the ways in which a sum may be paid;

(d) as to the records to be kept in relation to penalty notices;

(e) about the circumstances in which a penalty notice may be withdrawn, including provision about –

(i) the repayment of any sum paid before a notice is withdrawn, and

(ii) the circumstances in which proceedings for an offence may not be brought despite the withdrawal of a notice.

- (7) Ni chaiff rheoliadau o dan is-adran (6)(b) wneud darpariaeth i swm fod yn daladwy o dan hysbysiad cosb sy'n fwy na dwywaith a hanner lefel 4 ar y raddfa safonol.

### **53 Troseddau gan gyrff corfforaethol**

- (1) Mae'r adran hon yn gymwys pan fo trosedd o dan y Rhan hon neu o dan reoliadau a wneir odani wedi ei chyflawni gan gorff corfforaethol.
- (2) Mae person a grybwyllir yn is-adran (3) hefyd yn cyflawni'r drosedd os profir bod y drosedd wedi ei chyflawni gyda chydsyniad neu ymoddefiad y person hwnnw neu ei bod wedi ei phriodoli i unrhyw esgeulustod ar ran y person hwnnw.
- (3) Y personau hynny yw –
- cyfarwyddwr, rheolwr, ysgrifennydd neu swyddog tebyg arall yn y corff corfforaethol,
  - pan fo materion corff corfforaethol yn cael eu rheoli gan ei aelodau, aelod, neu
  - unrhyw berson sy'n honni ei fod yn gweithredu yn rhinwedd unrhyw un neu ragor o'r swyddi hynny.
- (4) Pan fo corff corfforaethol yn awdurdod lleol, mae'r cyfeiriad yn is-adran (3) at gyfarwyddwr, rheolwr neu ysgrifennydd yn y corff i'w ddarllen fel cyfeiriad at swyddog neu aelod o'r awdurdod.

### **54 Troseddau gan gyrff anghorfforedig**

- (1) Mae'r adran hon yn gymwys i droseddau o dan y Rhan hon ac o dan reoliadau a wneir odani.
- (2) Caniateir i achos am drosedd yr honnir ei bod wedi ei chyflawni gan gorff anghorfforedig gael ei ddwyn yn enw'r corff yn lle yn enw unrhyw un neu ragor o'i aelodau ac, at ddibenion unrhyw achos o'r fath, mae unrhyw reolau llys sy'n ymwneud â chyflwyno dogfennau yn cael effaith fel pe bai'r corff hwnnw yn gorff corfforaethol.
- (3) Mae unrhyw ddirwy a osodir ar gorff anghorfforedig ar ei gollfarnu o drosedd i'w thalu o gronfeydd y corff hwnnw.
- (4) Os caiff corff anghorfforedig ei gyhuddo o drosedd, mae adran 33 o Ddeddf Cyfiawnder Troseddol 1925 (p.86) ac Atodlen 3 i Ddeddf Llysoedd Ynadon 1980 (p.43) yn cael effaith fel pe bai corff corfforaethol wedi ei gyhuddo.

### **55 Achosion am droseddau**

- (1) Ni chaniateir i achos mewn cysylltiad â throsedd o dan y Rhan hon neu reoliadau a wneir odani, heb gydsyniad ysgrifenedig Cwnsler Cyffredinol Llywodraeth Cymru, gael ei ddwyn gan unrhyw berson ac eithrio'r Cwnsler Cyffredinol neu Weinidogion Cymru.
- (2) Rhaid i achos diannod mewn cysylltiad â throsedd o dan y Rhan hon neu reoliadau a wneir odani gael ei ddwyn o fewn y cyfnod o 12 mis sy'n dechrau ar y dyddiad y daeth yr erlynydd i wybod am dystiolaeth ddigonol i gyfiawnhau'r achos.
- (3) Ond ni chaniateir i achos o'r fath gael ei ddwyn fwy na tair blynedd ar ôl i'r drosedd gael ei chyflawni.

- (7) Regulations under subsection (6)(b) may not make provision for a sum to be payable under a penalty notice which exceeds two and a half times level 4 on the standard scale.

**53 Offences by bodies corporate**

- (1) This section applies where an offence under this Part or under regulations made under it is committed by a body corporate.
- (2) A person mentioned in subsection (3) also commits the offence if the offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, that person.
- (3) Those persons are –
  - (a) a director, manager, secretary or other similar officer of the body corporate,
  - (b) where a body corporate's affairs are managed by its members, a member, or
  - (c) any person purporting to act in any of those capacities.
- (4) Where a body corporate is a local authority, the reference in subsection (3) to a director, manager or secretary of the body is to be read as a reference to an officer or member of the authority.

**54 Offences by unincorporated bodies**

- (1) This section applies to offences under this Part and under regulations made under it.
- (2) Proceedings for an offence alleged to have been committed by an unincorporated body may be brought in the name of the body instead of in the name of any of its members and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a body corporate.
- (3) Any fine imposed on an unincorporated body on its conviction of an offence is to be paid out of the funds of that body.
- (4) If an unincorporated body is charged with an offence, section 33 of the Criminal Justice Act 1925 (c.86) and Schedule 3 to the Magistrates' Courts Act 1980 (c.43) have effect as if a body corporate had been charged.

**55 Proceedings for offences**

- (1) Proceedings in respect of an offence under this Part or regulations made under it may not, without the written consent of the Counsel General to the Welsh Government, be brought by any person other than the Counsel General or the Welsh Ministers.
- (2) Summary proceedings in respect of an offence under this Part or regulations made under it must be brought within the period of 12 months beginning on the date on which sufficient evidence to warrant the proceedings came to the prosecutor's knowledge.
- (3) But no such proceedings may be brought more than three years after the offence is committed.

**PENNOD 6****GWASANAETHAU CYMDEITHASOL AWDURDODAU LLEOL****56 Adroddiadau gan awdurdodau lleol a dyletswydd gyffredinol Gweinidogion Cymru**

- (1) Ar ôl adran 144 o Ddeddf 2014 (cyfarwyddwyr gwasanaethau cymdeithasol) mewnosoder –

**“144A Adroddiadau blynyddol**

- (1) Cyn gynted ag y bo'n rhesymol ymarferol ar ôl diwedd blwyddyn ariannol, rhaid i awdurdod lleol lunio a chyhoeddi adroddiad blynyddol ynghylch arfer swyddogaethau gwasanaethau cymdeithasol yr awdurdod mewn cysylltiad â'r flwyddyn honno.
- (2) Rhaid i'r adroddiad blynyddol gynnwys –
- (a) manylion am sut y mae'r awdurdod wedi arfer ei swyddogaethau gwasanaethau cymdeithasol yn ystod y flwyddyn ariannol, gan gynnwys manylion am y graddau y mae'r awdurdod wedi –
- (i) gweithredu yn unol â gofynion a osodir ar awdurdodau lleol gan god a ddyroddir o dan adran 9 (codau ar gyfer helpu i sicrhau canlyniadau mewn perthynas â llesiant),
- (ii) gweithredu yn unol ag unrhyw ofynion perthnasol sydd wedi eu cynnwys mewn cod a ddyroddir o dan adran 145 (codau ynghylch arfer swyddogaethau gwasanaethau cymdeithasol), a
- (iii) rhoi sylw i unrhyw ganllawiau perthnasol mewn cod a ddyroddir o dan adran 145, a
- (b) unrhyw wybodaeth arall a ragnodir drwy reoliadau.
- (3) Rhaid i'r manylion a ddarperir o dan is-adran (2)(a)(ii) ddatgan sut y mae'r awdurdod wedi bodloni unrhyw ofynion a gynhwysir mewn cod sy'n ymwneud ag asesu anghenion unigolyn yn unol â Rhan 3 a diwallu anghenion o dan Ran 4.
- (4) Rhaid i adroddiad blynyddol fod ar ffurf a ragnodir drwy reoliadau.
- (5) Rhaid i awdurdod lleol anfon copi o adroddiad blynyddol a gyhoeddwyd at Weinidogion Cymru.
- (6) Yn yr adran hon, ystyr “blwyddyn ariannol” yw'r cyfnod o flwyddyn sy'n dechrau ar 1 Ebrill ac sy'n dod i ben ar 31 Mawrth.

**144B Adroddiadau ar sefydlogrwydd y farchnad leol**

- (1) Rhaid i awdurdod lleol lunio a chyhoeddi adroddiad ar sefydlogrwydd y farchnad leol ar unrhyw adegau a ragnodir drwy reoliadau.

## CHAPTER 6

### LOCAL AUTHORITY SOCIAL SERVICES

#### 56 Reports by local authorities and general duty of the Welsh Ministers

(1) After section 144 of the 2014 Act (directors of social services) insert –

##### **“144A Annual reports**

- (1) As soon as is reasonably practicable after the end of a financial year, a local authority must prepare and publish an annual report about the exercise of the social services functions of the authority in respect of that year.
- (2) The annual report must include –
  - (a) details of how the authority has exercised its social services functions during the financial year, including details of the extent to which the authority has –
    - (i) acted in accordance with requirements imposed on local authorities by a code issued under section 9 (codes to help achieve outcomes in relation to well-being),
    - (ii) acted in accordance with any relevant requirements contained in a code issued under section 145 (codes about the exercise of social services functions), and
    - (iii) had regard to any relevant guidelines in a code issued under section 145, and
  - (b) such other information as may be prescribed by regulations.
- (3) The details provided under subsection (2)(a)(ii) must state how the authority has satisfied any requirements contained in a code relating to assessing the needs of an individual in accordance with Part 3 and meeting needs under Part 4.
- (4) An annual report must be in such form as may be prescribed by regulations.
- (5) A local authority must send a copy of a published annual report to the Welsh Ministers.
- (6) In this section, “financial year” means the period of one year beginning on 1 April and ending on 31 March.

##### **144B Local market stability reports**

- (1) A local authority must prepare and publish a local market stability report at such times as may be prescribed by regulations.



- (2) Rhaid i adroddiad ar sefydlogrwydd y farchnad leol gynnwys—
  - (a) asesiad o—
    - (i) digonolrwydd y ddarpariaeth o ofal a chymorth yn ardal yr awdurdod lleol yn ystod unrhyw gyfnod a ragnodir drwy reoliadau;
    - (ii) y graddau y darparwyd gwasanaethau rheoleiddiedig yn ardal yr awdurdod lleol yn ystod y cyfnod rhagnodedig hwnnw gan ddarparwyr gwasanaethau y mae adran 61 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (asesu cynaliadwyedd ariannol darparwr gwasanaeth gan Weinidogion Cymru) yn gymwys iddynt;
    - (iii) unrhyw fater arall sy'n ymwneud â'r ddarpariaeth o wasanaethau rheoleiddiedig yn ardal yr awdurdod lleol a ragnodir drwy reoliadau;
    - (iv) effaith comisiynu unrhyw wasanaethau gan yr awdurdod lleol mewn cysylltiad â swyddogaethau gwasanaethau cymdeithasol yr awdurdod lleol ar arferiad y swyddogaethau hynny yn ystod unrhyw gyfnod a ragnodir drwy reoliadau;
  - (b) adroddiad ar unrhyw gamau a gymerwyd gan yr awdurdod lleol yn ystod y cyfnod a ragnodir o dan baragraff (a)(i) yn unol â'i ddyletswydd o dan adran 189(2) (dyletswydd dros dro i ddiwallu anghenion yn achos methiant darparwr).
- (3) Rhaid i adroddiad ar sefydlogrwydd y farchnad leol fod ar ffurf a ragnodir drwy reoliadau.
- (4) Wrth lunio adroddiad ar sefydlogrwydd y farchnad leol, rhaid i awdurdod lleol—
  - (a) ystyried—
    - (i) yr asesiad y mae wedi ei gyhoeddi'n ddiweddaraf o dan adran 14 (asesiadau o anghenion), a
    - (ii) y cynllun y mae wedi ei gyhoeddi'n ddiweddaraf o dan adran 14A ar ôl yr asesiad, a
  - (b) ymgynghori â phob Bwrdd Iechyd Lleol y cynhaliodd yr asesiad gydag ef.
- (5) Rhaid i awdurdod lleol anfon copi o adroddiad ar sefydlogrwydd y farchnad leol a gyhoeddwyd at Weinidogion Cymru.
- (6) Cyn gwneud rheoliadau o dan is-adran (2)(a)(iii) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.

- (2) A local market stability report must include –
  - (a) an assessment of –
    - (i) the sufficiency of provision of care and support in the local authority area during such period as may be prescribed by regulations;
    - (ii) the extent to which regulated services were provided in the local authority area during that prescribed period by service providers to whom section 61 of the Regulation and Inspection of Social Care (Wales) Act 2016 (assessment by the Welsh Ministers of financial sustainability of service provider) applies;
    - (iii) any other matter relating to the provision of regulated services in the local authority area as may be prescribed by regulations;
    - (iv) the effect on the exercise of the local authority's social services functions of the commissioning by the authority of any services in connection with those functions during such period as may be prescribed by regulations;
  - (b) a report of any action taken by the local authority during the period prescribed under paragraph (a)(i) in pursuance of its duty under section 189(2) (temporary duty to meet needs in the case of a provider failure).
- (3) A local market stability report must be in such form as may be prescribed by regulations.
- (4) In preparing a local market stability report, a local authority must –
  - (a) take account of –
    - (i) the assessment it has most recently published under section 14 (needs assessments), and
    - (ii) the plan it has most recently published under section 14A following the assessment, and
  - (b) consult with each Local Health Board with which it carried out the assessment.
- (5) A local authority must send a copy of a published local market stability report to the Welsh Ministers.
- (6) Before making regulations under subsection (2)(a)(iii) the Welsh Ministers must consult any persons they think appropriate.

- (7) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau –
- (a) sy'n diwygio rheoliadau eraill a wneir o dan yr is-adran honno, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.
- (8) Yn yr adran hon –
- (a) mae i "darparwr gwasanaeth" yr ystyr a roddir gan adran o 3(1)(c) Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016;
  - (b) mae i "gwasanaeth rheoleiddiedig" yr ystyr a roddir gan adran 2(1) o'r Ddeddf honno.

*Dyletswydd gyffredinol Gweinidogion Cymru*

#### **144C Dyletswydd gyffredinol Gweinidogion Cymru**

Wrth arfer swyddogaethau o dan y Rhan hon rhaid i Weinidogion Cymru geisio hyrwyddo a chynnal safonau uchel yn y ddarpariaeth o swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol."

- (2) Yn adran 196(6) o Ddeddf 2014 (rheoliadau nas gwneir ond os yw drafft wedi ei gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru), ar ôl paragraff (c) mewnosoder –

"(d) y rheoliadau cyntaf a wneir o dan adran 144A(2)(b);".

#### **57 Adolygiadau, ymchwiliadau ac arolygiadau**

- (1) Ar ôl adran 149 o Ddeddf 2014 (cyfarwyddiadau i'w gwneud yn ofynnol i gydymffurfio â chodau ymarfer) mewnosoder –

*"Adolygiadau*

#### **149A Adolygiadau o astudiaethau ac ymchwil**

- (1) Caiff Gweinidogion Cymru adolygu –
- (a) astudiaethau ac ymchwil a wneir gan eraill mewn perthynas ag arfer swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol yng Nghymru,
  - (b) y dulliau a ddefnyddir mewn astudiaethau ac ymchwil o'r fath, ac
  - (c) dilysrwydd casgliadau astudiaethau ac ymchwil o'r fath.
- (2) Rhaid i Weinidogion Cymru –
- (a) llunio a chyhoeddi adroddiad ar adolygiad a gynhelir o dan is-adran (1), a

- (7) But the requirement to consult does not apply to regulations which—
  - (a) amend other regulations made under that subsection, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.
- (8) In this section—
  - (a) “service provider” has the meaning given by section 3(1)(c) of the Regulation and Inspection of Social Care (Wales) Act 2016;
  - (b) “regulated service” has the meaning given by section 2(1) of that Act.

*General duty of the Welsh Ministers*

**144C General duty of the Welsh Ministers**

In exercising functions under this Part the Welsh Ministers must seek to promote and maintain high standards in the provision of local authority social services functions.”

- (2) In section 196(6) of the 2014 Act (regulations made only if draft approved by resolution of the National Assembly for Wales), after paragraph (c) insert—
  - “(d) the first regulations made under section 144A(2)(b);”.

**57 Reviews, investigations and inspections**

- (1) After section 149 of the 2014 Act (directions to require compliance with codes of practice) insert—

*“Reviews*

**149A Reviews of studies and research**

- (1) The Welsh Ministers may review—
  - (a) studies and research undertaken by others in relation to the exercise of the social services functions of local authorities in Wales,
  - (b) the methods used in such studies and research, and
  - (c) the validity of conclusions drawn from such studies and research.
- (2) The Welsh Ministers must—
  - (a) prepare and publish a report of a review conducted under subsection (1), and

- (b) gosod copi o'r adroddiad gerbron Cynulliad Cenedlaethol Cymru.

**149B Adolygiadau o swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol**

- (1) Caiff Gweinidogion Cymru adolygu'r ffordd y caiff swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol eu harfer.
- (2) Yn benodol, caiff Gweinidogion Cymru –
  - (a) adolygu'r arferiad cyffredinol o swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol yng Nghymru;
  - (b) adolygu'r ffordd y caiff swyddogaethau gwasanaethau cymdeithasol awdurdod lleol penodol eu harfer;
  - (c) adolygu'r arferiad o swyddogaeth gwasanaethau cymdeithasol awdurdod lleol o ddisgrifiad penodol (pa un a yw wedi ei harfer gan un awdurdod lleol neu gan ddau neu ragor o awdurdodau yn cydweithio);
  - (d) adolygu'r arferiad o swyddogaeth gwasanaethau cymdeithasol awdurdod lleol gan berson neu bersonau penodol.
- (3) Mae cyfeiriad yn is-adran (2) at arfer swyddogaethau gwasanaethau cymdeithasol awdurdod lleol gan awdurdod lleol yn cynnwys cyfeiriad at gomisiynu unrhyw wasanaethau mewn cysylltiad â'r swyddogaethau hynny.
- (4) Rhaid i Weinidogion Cymru –
  - (a) llunio a chyhoeddi adroddiad ar adolygiad a gynhelir o dan is-adran (1), a
  - (b) gosod copi o'r adroddiad gerbron Cynulliad Cenedlaethol Cymru.
- (5) Caiff rheoliadau wneud darpariaeth ynghylch graddau y caniateir iddynt gael eu rhoi mewn perthynas â'r arferiad o swyddogaeth gwasanaethau cymdeithasol awdurdod lleol benodedig.
- (6) Os gwneir rheoliadau o dan is-adran (5) mewn perthynas ag arfer swyddogaeth gwasanaethau cymdeithasol awdurdod lleol, rhaid i Weinidogion Cymru –
  - (a) wrth gynnal adolygiad o'r arferiad o'r swyddogaeth honno, roi gradd yn unol â'r rheoliadau, a
  - (b) cynnwys y radd yn eu hadroddiad ar yr adolygiad.
- (7) Cyn gwneud rheoliadau o dan is-adran (5) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (8) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau –
  - (a) sy'n diwygio rheoliadau eraill a wneir o dan yr is-adran hon, a

- (b) lay a copy of the report before the National Assembly for Wales.

**149B    Reviews of local authority social services functions**

- (1) The Welsh Ministers may review the way in which the social services functions of local authorities are exercised.
- (2) In particular, the Welsh Ministers may –
  - (a) review the overall exercise of local authority social services functions in Wales;
  - (b) review the way in which the social services functions of a particular local authority are exercised;
  - (c) review the exercise of a local authority social services function of a particular description (whether exercised by a single local authority or by two or more authorities working together);
  - (d) review the exercise of a local authority social services function by a particular person or persons.
- (3) A reference in subsection (2) to the exercise by a local authority of local authority social services functions includes a reference to the commissioning of any services in connection with those functions.
- (4) The Welsh Ministers must –
  - (a) prepare and publish a report of a review conducted under subsection (1), and
  - (b) lay a copy of the report before the National Assembly for Wales.
- (5) Regulations may make provision about ratings that may be given in relation to the exercise of a specified local authority social services function.
- (6) If regulations are made under subsection (5) in relation to the exercise of a local authority social services function, the Welsh Ministers must –
  - (a) in conducting a review of the exercise of that function give a rating in accordance with the regulations, and
  - (b) include the rating in their report of the review.
- (7) Before making regulations under subsection (5) the Welsh Ministers must consult any persons they think appropriate.
- (8) But the requirement to consult does not apply to regulations which –
  - (a) amend other regulations made under that subsection, and

- (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

#### **149C Ffioedd**

- (1) Caiff rheoliadau wneud darpariaeth i awdurdod lleol dalu ffi mewn cysylltiad ag adolygiad o dan adran 149B(1).
- (2) Caiff rheoliadau o dan is-adran (1) gynnwys darpariaeth—
  - (a) sy'n pennu swm unrhyw ffi neu sy'n caniatáu i Weinidogion Cymru benderfynu ar swm unrhyw ffi (yn ddarostyngedig i unrhyw derfynau neu ffactorau eraill a bennir yn y rheoliadau);
  - (b) sy'n pennu'r amser ar gyfer talu ffi neu sy'n pennu ffactorau y mae Gweinidogion Cymru i benderfynu ar yr amser hwnnw yn unol â hwy.

#### **149D Ystyriaethau cyffredinol**

Wrth gynnal adolygiad o dan adran 149A neu 149B, rhaid i Weinidogion Cymru, mewn perthynas â swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol sy'n cael eu hadolygu, roi sylw i—

- (a) argaeledd a hygyrchedd y gwasanaethau;
- (b) ansawdd ac effeithiolrwydd y gwasanaethau;
- (c) y ffordd y caiff y gwasanaethau eu rheoli;
- (d) darbodaeth ac effeithlonrwydd eu darpariaeth a'u gwerth am arian;
- (e) argaeledd ac ansawdd yr wybodaeth a ddarperir i bobl yn ardal yr awdurdod lleol ynghylch y gwasanaethau;
- (f) y dyletswyddau a osodir ar awdurdodau lleol gan adrannau 5 (dyletswydd i hyrwyddo llesiant), 6 (dyletswyddau hollgyffredinol eraill) a 7 (dyletswyddau sy'n ymwneud ag Egwyddorion a Chonfensiwn y Cenhedloedd Unedig) i'r graddau y bônt yn berthnasol i'r gwasanaethau ac effeithiolrwydd y camau a gymerir gan awdurdod lleol i gyflawni'r dyletswyddau hynny;
- (g) effeithiolrwydd y camau a gymerir gan awdurdod lleol i sicrhau'r canlyniadau a bennir mewn datganiad a ddyroddir gan Weinidogion Cymru o dan adran 8 (datganiad o ganlyniadau sy'n ymwneud â llesiant) i'r graddau y bônt yn berthnasol i'r gwasanaethau;
- (h) unrhyw fesurau perfformiad a thargedau perfformiad a nodir mewn cod a ddyroddir o dan adran 9 sy'n berthnasol yn eu barn hwy;

- (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

**149C Fees**

- (1) Regulations may make provision for a local authority to pay a fee in respect of a review under section 149B(1).
- (2) Regulations under subsection (1) may include provision –
  - (a) specifying the amount of any fee or permitting the Welsh Ministers to determine the amount of any fee (subject to any limits or other factors as may be specified in the regulations);
  - (b) specifying the time by which a fee is to be payable or specifying factors by which that time is to be determined by the Welsh Ministers.

**149D General considerations**

When conducting a review under section 149A or 149B, the Welsh Ministers must, in relation to the local authority social services functions under review, have regard to –

- (a) the availability and accessibility of the services;
- (b) the quality and effectiveness of the services;
- (c) the management of the services;
- (d) the economy and efficiency of their provision and their value for money;
- (e) the availability and quality of information provided to people in the local authority area about the services;
- (f) the duties imposed on local authorities by sections 5 (duty to promote well-being), 6 (other overarching duties) and 7 (duties relating to UN Principles and Convention) in so far as they are relevant to the services and the effectiveness of measures taken by a local authority to fulfil those duties;
- (g) the effectiveness of measures taken by a local authority to achieve the outcomes specified in a statement issued by the Welsh Ministers under section 8 (statement of outcomes relating to well-being) in so far as they are relevant to the services;
- (h) any performance measures and performance targets set out in a code issued under section 9 that they think are relevant;



- (i) unrhyw ofynion neu ganllawiau sydd wedi eu cynnwys mewn cod a ddyroddir o dan adran 145 sy'n berthnasol yn eu barn hwy;
  - (j) y graddau y mae awdurdod lleol wedi cynnwys pobl o ardal yr awdurdod lleol –
    - (i) mewn penderfyniadau ynghylch y ffordd y mae ei swyddogaethau gwasanaethau cymdeithasol yn cael eu harfer, a
    - (ii) wrth adolygu'r arferiad o'r swyddogaethau hynny."
- (2) Yn lle adran 161 o Ddeddf 2014 (pwerau mynd i mewn ac arolygu) rhodder –

*"Gorfodi*

**161 Pwerau mynd i mewn ac arolygu**

- (1) Caiff person sy'n dod o fewn is-adran (2) awdurdodi arolygydd i fynd i mewn i fangre sy'n dod o fewn is-adran (3) a'i harolygu.
- (2) Mae'r personau a ganlyn yn dod o fewn yr is-adran hon –
  - (a) Gweinidogion Cymru –
    - (i) pan fônt yn ystyried ei bod yn angenrheidiol neu'n hwylus at ddibenion adolygiad a gynhelir o dan adran 149B(1), neu
    - (ii) yn unol â chyfarwyddyd o dan adran 155;
  - (b) person a bennir mewn cyfarwyddyd o dan adran 153 neu, pan fo'r cyfarwyddyd yn pennu dosbarth o bersonau, y person y mae'r awdurdod lleol yn ymrwymo i'r contract neu'r trefniant arall ag ef sy'n ofynnol drwy'r cyfarwyddyd;
  - (c) person a bennir mewn cyfarwyddyd o dan adran 154;
  - (d) person a enwebir mewn cyfarwyddyd o dan adran 155.
- (3) Mae'r mangreoedd a ganlyn o dod o fewn yr is-adran hon –
  - (a) mangreoedd y mae awdurdod lleol yn berchen arnynt neu'n eu rheoli;
  - (b) mangreoedd –
    - (i) sy'n cael eu defnyddio, neu y bwriedir iddynt gael eu defnyddio, gan unrhyw berson mewn cysylltiad ag arfer swyddogaeth gwasanaethau cymdeithasol awdurdod lleol, neu

- (i) any requirements or guidelines contained in a code issued under section 145 that they think are relevant;
  - (j) the extent to which a local authority has involved people in the local authority area –
    - (i) in decisions about the way in which its social services functions are exercised, and
    - (ii) in reviewing the exercise of those functions.”
- (2) For section 161 of the 2014 Act (powers of entry and inspection) substitute –

*“Enforcement*

**161 Powers of entry and inspection**

- (1) A person falling within subsection (2) may authorise an inspector to enter and inspect premises falling within subsection (3).
- (2) The following persons fall within this subsection –
  - (a) the Welsh Ministers –
    - (i) where they consider it necessary or expedient for the purposes of a review conducted under section 149B(1), or
    - (ii) in pursuance of a direction under section 155;
  - (b) a person specified in a direction under section 153 or, where the direction specifies a class of persons, the person with whom the local authority enters into the contract or other arrangement required by the direction;
  - (c) a person specified in a direction under section 154;
  - (d) a person nominated in a direction under section 155.
- (3) The following premises fall within this subsection –
  - (a) premises owned or controlled by a local authority;
  - (b) premises –
    - (i) which are used, or proposed to be used, by any person in connection with the exercise of a local authority social services function, or

- (ii) y mae Gweinidogion Cymru yn credu'n rhesymol eu bod yn cael eu defnyddio, neu y gallant gael eu defnyddio, at y diben hwnnw,

ond nid yw mangre sy'n cael ei defnyddio'n gyfan gwbl neu'n bennaf fel annedd breifat yn dod o fewn yr is-adran hon ond os yw meddiannydd y fangre yn cydsynio i'r arolygydd fynd i mewn a'i harolygu.

- (4) Mae "mangre" yn cynnwys cerbyd.
- (5) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ynghylch y cymwysterau a'r amodau eraill sydd i'w bodloni gan unigolyn y caniateir iddo fod yn arolygydd.
- (6) Wrth fynd i mewn i fangre, rhaid i arolygydd, os gofynnir iddo wneud hynny gan unrhyw berson yn y fangre, gyflwyno dogfen sy'n dangos awdurdodiad yr arolygydd o dan is-adran (1).
- (7) Caiff yr arolygydd—
- (a) archwilio cyflwr y fangre a'r ffordd y caiff ei rheoli ac, os oes unrhyw bersonau yn cael eu lletya yn y fangre neu'n cael gofal a chymorth yno, archwilio'r driniaeth y mae'r personau hynny yn ei chael;
  - (b) ei gwneud yn ofynnol i reolwr y fangre neu unrhyw berson arall yr ymddengys i'r arolygydd fod ganddo, neu ei fod yn atebol am, ddogfennau neu gofnodion a gedwir yn y fangre, gyflwyno unrhyw ddogfennau neu gofnodion (gan gynnwys cofnodion meddygol a chofnodion personol eraill) y mae'r arolygydd yn ystyried y gallant fod yn berthnasol i'r aferiad o swyddogaethau o dan y Rhan hon gan y person a awdurdododd yr arolygydd;
  - (c) edrych ar unrhyw ddogfennau neu gofnodion (gan gynnwys cofnodion meddygol a chofnodion personol eraill) y mae'r arolygydd yn ystyried y gallant fod yn berthnasol i'r arferiad o swyddogaethau o dan y Rhan hon gan y person a awdurdododd yr arolygydd a mynd â chopiau ohonynt;
  - (d) ei gwneud yn ofynnol i unrhyw berson roi i'r arolygydd unrhyw gyfleusterau a chymorth mewn cysylltiad â materion sydd o fewn rheolaeth y person y mae eu hangen er mwyn galluogi'r arolygydd i gynnal yr arolygiad;
  - (e) cymryd unrhyw fesuriadau, tynnu unrhyw ffotograffau a gwneud unrhyw recordiadau y mae'r arolygydd yn ystyried eu bod yn angenrheidiol at ddiben cynnal yr arolygiad;
  - (f) cyf-weld yn breifat—
    - (i) â rheolwr y fangre neu unrhyw berson arall yr ymddengys i'r arolygydd ei fod yn gyfrifol am y fangre;
    - (ii) ag unrhyw berson sy'n gweithio yno;

- (ii) which the Welsh Ministers reasonably believe is being used, or may be used, for that purpose,

but premises used wholly or mainly as a private dwelling do not fall within this subsection unless the occupier of the premises consents to the inspector entering and inspecting them.

- (4) "Premises" includes a vehicle.
- (5) The Welsh Ministers may by regulations make provision about the qualifications and other conditions to be met by an individual who may be an inspector.
- (6) When entering premises, an inspector must, if requested to do so by any person at the premises, produce a document showing the inspector's authorisation given under subsection (1).
- (7) The inspector may –
  - (a) examine the state and management of the premises and, if any persons are accommodated or receive care and support at the premises, examine the treatment of those persons;
  - (b) require the manager of the premises or any other person who appears to the inspector to hold or be accountable for documents or records kept at the premises to produce any documents or records (including medical and other personal records) that the inspector considers may be relevant to the exercise of functions under this Part by the person who authorised the inspector;
  - (c) inspect and take copies of any documents or records (including medical and other personal records) that the inspector considers may be relevant to the exercise of functions under this Part by the person who authorised the inspector;
  - (d) require any person to afford the inspector such facilities and assistance with respect to matters within the person's control as are necessary to enable the inspector to carry out the inspection;
  - (e) take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of carrying out the inspection;
  - (f) interview in private –
    - (i) the manager of the premises or any other person who appears to the inspector to be responsible for the premises;
    - (ii) any person working there;

- (iii) ag unrhyw berson sy'n cydsynio i gael ei gyf-weld sy'n cael ei letya yno neu sy'n cael gofal a chymorth yno.
- (8) Mae'r pwerau yn is-adran (7)(b) i (d) yn cynnwys y pŵer –
- (a) i gael mynediad i unrhyw gyfrifiadur a chyfarpar cysylltiedig y mae gan yr arolygydd seiliau rhesymol dros gredu eu bod yn cael eu defnyddio (neu wedi cael eu ddefnyddio) mewn cysylltiad â'r dogfennau neu'r cofnodion a gwirio gweithrediad unrhyw gyfrifiadur a chyfarpar cysylltiedig o'r fath, a
  - (b) i'w gwneud yn ofynnol i ddogfennau neu gofnodion gael eu cyflwyno ar ffurf sy'n ddarllenadwy ac yn gludadwy.
- (9) Mae is-adran (10) yn gymwys –
- (a) pan fo personau yn cael eu lletya yn y fangre sy'n cael ei harolygu neu'n cael gofal a chymorth yno,
  - (b) pan fo'r arolygydd yn ymarferydd meddygol cofrestredig neu'n nyrs gofrestredig, ac
  - (c) pan fo gan yr arolygydd seiliau rhesymol dros gredu nad yw person sy'n cael ei letya yn y fangre neu sy'n cael gofal a chymorth yno yn cael (neu wedi cael) gofal a chymorth priodol.
- (10) Pan fo'r is-adran hon yn gymwys, caiff yr arolygydd gynnal archwiliad preifat o'r person ond dim ond os yw'r person yn rhoi cydsyniad i'r archwiliad.
- (11) At ddibenion is-adrannau (7)(f) a (10), mae cyfweliad neu archwiliad i'w drin fel pe bai wedi ei gynnal yn breifat er gwaethaf presenoldeb trydydd parti –
- (a) os yw'r person y cyfwelir ag ef neu y cynhelir archwiliad ohono yn dymuno i'r trydydd parti fod yn bresennol ac nad yw'r arolygydd yn gwrthwynebu, neu
  - (b) os yw'r arolygydd yn dymuno i'r trydydd parti fod yn bresennol a bod y person y cyfwelir ag ef neu y cynhelir archwiliad ohono yn cydsynio.
- (12) Pan fo arolygydd yn cynnal cyfweliad neu archwiliad o dan yr adran hon, rhaid i'r arolygydd, os gofynnir iddo wneud hynny gan –
- (a) y person y cyfwelir ag ef neu y cynhelir archwiliad ohono, neu
  - (b) unigolyn sy'n dod gyda'r person hwnnw,
- gyflwyno dogfen sy'n dangos awdurdodiad yr arolygydd a roddir o dan is-adran (1) ac, yn achos archwiliad, ddogfen sy'n dangos bod yr arolygydd yn ymarferydd meddygol cofrestredig neu'n nyrs gofrestredig.

- (iii) any person accommodated or receiving care and support there who consents to be interviewed.
- (8) The powers in subsection (7)(b) to (d) include the power to –
  - (a) gain access to and check the operation of any computer and associated apparatus which the inspector has reasonable grounds to believe is (or has been) used in connection with the documents or records, and
  - (b) require documents or records to be produced in a form which is legible and portable.
- (9) Subsection (10) applies where –
  - (a) persons are accommodated or receiving care and support at the inspected premises,
  - (b) the inspector is a registered medical practitioner or registered nurse, and
  - (c) the inspector has reasonable grounds to believe that a person accommodated or receiving care and support at the premises is not receiving (or has not received) proper care and support.
- (10) Where this subsection applies, the inspector may examine the person in private but only if the person gives consent to the examination.
- (11) For the purposes of subsections (7)(f) and (10), an interview or examination is to be treated as conducted in private despite the presence of a third party if –
  - (a) the person being interviewed or examined wants the third party to be present and the inspector does not object, or
  - (b) the inspector wants the third party to be present and the person being interviewed or examined consents.
- (12) Where an inspector conducts an interview or examination under this section, the inspector must, if requested to do so by –
  - (a) the person being interviewed or examined, or
  - (b) an individual accompanying that person,produce a document showing the inspector's authorisation given under subsection (1) and, in the case of an examination, a document showing that the inspector is a registered medical practitioner or registered nurse.

- (13) Cyn gynted ag y bo'n rhesymol ymarferol ar ôl i arolygydd orffen arolygiad o dan yr adran hon, rhaid i'r arolygydd anfon adroddiad ar yr arolygiad at y person a roddodd yr awdurdodiad o dan is-adran (1).
- (14) Rhaid i'r person hwnnw anfon copi o adroddiad yr arolygydd –
  - (a) i'r awdurdod lleol sy'n cael ei adolygu neu sy'n ddarostyngedig i'r cyfarwyddyd, a
  - (b) os nad Gweinidogion Cymru yw'r person, at Weinidogion Cymru.
- (15) Yn yr adran hon ac yn adrannau 161A, 161B a 161C, ystyr "arolygydd" yw unigolyn sydd wedi ei awdurdodi o dan is-adran (1).

#### **161A Cod ymarfer ynghylch arolygiadau**

- (1) Rhaid i Weinidogion Cymru lunio a chyhoeddi cod ymarfer ynghylch y modd y mae arolygiadau o fangreoedd o dan adran 161 i'w cynnal (gan gynnwys amllder arolygiadau o'r fath).
- (2) Caiff Gweinidogion Cymru ddiwygio'r cod a rhaid iddynt gyhoeddi cod diwygiedig.
- (3) Rhaid i arolygydd roi sylw i'r cod diweddaraf a gyhoeddwyd wrth gynnal arolygiad o dan adran 161.

#### **161B Pŵer i'w gwneud yn ofynnol i wybodaeth gael ei darparu**

- (1) Caiff Gweinidogion Cymru ei gwneud yn ofynnol i berson sy'n dod o fewn is-adran (2) ddarparu iddynt –
  - (a) unrhyw ddogfennau, cofnodion (gan gynnwys cofnodion meddygol neu gofnodion personol eraill) neu wybodaeth arall –
    - (i) sy'n ymwneud ag arfer swyddogaeth gwasanaethau cymdeithasol awdurdod lleol, a
    - (ii) y mae Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol neu'n hwylus eu cael at ddibenion adolygiad o dan adran 149A neu 149B;
  - (b) esboniad am gynnwys –
    - (i) unrhyw ddogfennau, cofnodion neu wybodaeth arall a ddarperir o dan baragraff (a), neu
    - (ii) unrhyw ddogfennau neu gofnodion a ddarperir i arolygydd sy'n cynnal arolygiad o fangre o dan adran 161 mewn cysylltiad ag adolygiad o dan adran 149B.
- (2) Mae'r personau a ganlyn yn dod o fewn yr is-adran hon –
  - (a) awdurdod lleol;
  - (b) person sy'n darparu gwasanaeth mewn cysylltiad ag arfer swyddogaeth gwasanaethau cymdeithasol awdurdod lleol;

- (13) As soon as is reasonably practicable after an inspector has concluded an inspection under this section, the inspector must send a report of the inspection to the person who gave the authorisation under subsection (1).
- (14) That person must send a copy of the inspector's report –
  - (a) to the local authority being reviewed or subject to the direction, and
  - (b) if the person is not the Welsh Ministers, to the Welsh Ministers.
- (15) In this section and sections 161A, 161B and 161C, "inspector" means an individual authorised under subsection (1).

**161A Code of practice about inspections**

- (1) The Welsh Ministers must prepare and publish a code of practice about the manner in which inspections of premises under section 161 are to be carried out (including about the frequency of such inspections).
- (2) The Welsh Ministers may revise the code and must publish a revised code.
- (3) An inspector must have regard to the most recently published code when carrying out an inspection under section 161.

**161B Power to require information**

- (1) The Welsh Ministers may require a person falling within subsection (2) to provide them with –
  - (a) any documents, records (including medical or other personal records) or other information –
    - (i) which relate to the exercise of a social services function of a local authority, and
    - (ii) which the Welsh Ministers consider it necessary or expedient to have for the purposes of a review under section 149A or 149B;
  - (b) an explanation of the content of –
    - (i) any documents, records or other information provided under paragraph (a), or
    - (ii) any documents or records provided to an inspector conducting an inspection of premises under section 161 in connection with a review under section 149B.
- (2) The following persons fall within this subsection –
  - (a) a local authority;
  - (b) a person providing a service in connection with the exercise of a local authority social services function;



- (c) Bwrdd Iechyd Lleol;
- (d) ymddiriedolaeth GIG,

ond ni ellir ei gwneud yn ofynnol i Fwrdd Iechyd Lleol neu ymddiriedolaeth GIG ddarparu esboniad am gynnwys unrhyw ddogfennau neu gofnodion a ddarperir i arolygydd sy'n cynnal arolygiad o fangre o dan adran 161.

- (3) Nid yw'n ofynnol i berson ddarparu dogfennau, cofnodion neu wybodaeth arall o dan is-adran (1) os yw'r person wedi ei wahardd rhag eu darparu drwy unrhyw ddeddfiad neu reol gyfreithiol arall.
- (4) Mae'r pŵer yn is-adran (1) yn cynnwys pŵer i'w gwneud yn ofynnol i ddogfennau neu gofnodion gael eu cyflwyno ar ffurf sy'n ddarllenadwy ac yn gludadwy.

### **161C Troseddau**

- (1) Mae'n drosedd i berson –
    - (a) mynd ati'n fwriadol i rwystro cynnal arolygiad o fangre o dan adran 161 gan arolygydd, neu
    - (b) methu â chydymffurfio ag unrhyw ofyniad a osodir ar y person gan arolygydd sy'n cynnal arolygiad o'r fath.
  - (2) Mae'n drosedd i berson fethu â chydymffurfio â gofyniad a osodir ar y person gan Weinidogion Cymru o dan adran 161B(1).
  - (3) Mae'n amddiffyniad i berson sydd wedi ei gyhuddo o drosedd o dan is-adran (1)(b) neu (2) ddangos bod ganddo esgus rhesymol dros beidio â chydymffurfio â'r gofyniad.
  - (4) Mae person sy'n euog o drosedd o dan yr adran hon yn agored –
    - (a) ar gollfarn ddiannod, i ddirwy, neu i'w garcharu am dymor nad yw'n hwy na 6 mis, neu i'r ddau;
    - (b) ar gollfarn ar dditiad, i ddirwy, neu i'w garcharu am dymor nad yw'n hwy na 2 flynedd, neu i'r ddau.
  - (5) Mae adrannau 53 (troseddau gan gyrff corfforaethol), 54 (troseddau gan gyrff anghorfforedig) a 55 (achosion am droseddau) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 yn gymwys i drosedd o dan yr adran hon fel y maent yn gymwys i droseddau o dan Ran 1 o'r Ddeddf honno."
- (3) Yn adran 196(6)(a) o Ddeddf 2014 (rheoliadau nas gwneir ond os yw drafft wedi ei gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru), ar ôl "135(4)," mewnosoder "149B(5), 149C(1),".

- (c) a Local Health Board;
- (d) an NHS trust,

but a Local Health Board or NHS trust cannot be required to provide an explanation of the content of any documents or records provided to an inspector conducting an inspection of premises under section 161.

- (3) A person is not required to provide documents, records or other information under subsection (1) if the person is prohibited from providing them by any enactment or other rule of law.
- (4) The power in subsection (1) includes power to require documents or records to be produced in a form which is legible and portable.

### **161C Offences**

- (1) It is an offence for a person –
    - (a) to intentionally obstruct the carrying out of an inspection of premises under section 161 by an inspector, or
    - (b) to fail to comply with any requirement imposed on the person by an inspector carrying out such an inspection.
  - (2) It is an offence for a person to fail to comply with a requirement imposed on the person by the Welsh Ministers under section 161B(1).
  - (3) It is a defence for a person charged with an offence under subsection (1)(b) or (2) to show that the person had a reasonable excuse for not complying with the requirement.
  - (4) A person guilty of an offence under this section is liable –
    - (a) on summary conviction, to a fine, or to imprisonment for a term not exceeding 6 months, or to both;
    - (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.
  - (5) Sections 53 (offences by bodies corporate), 54 (offences by unincorporated bodies) and 55 (proceedings for offences) of the Regulation and Inspection of Social Care (Wales) Act 2016 apply to an offence under this section as they apply to offences under Part 1 of that Act.”
- (3) In section 196(6)(a) of the 2014 Act (regulations made only if draft approved by resolution of the National Assembly for Wales), after “135(4),” insert “149B(5), 149C(1),”.

**58 Rheoleiddio swyddogaethau awdurdodau lleol sy'n ymwneud â phlant sy'n derbyn gofal a phlant sy'n cael eu lletya**

Ar ôl adran 94 o Ddeddf 2014 (rheoliadau ynghylch trefniadau asiantaeth) mewnosoder—

*“Rheoleiddio swyddogaethau awdurdodau lleol sy'n ymwneud â phlant sy'n derbyn gofal a phlant sy'n cael eu lletya*

**94A Rheoleiddio'r arferiad o swyddogaethau awdurdodau lleol sy'n ymwneud â phlant sy'n derbyn gofal a phlant sy'n cael eu lletya**

- (1) Caiff rheoliadau wneud darpariaeth ynghylch yr arferiad gan awdurdodau lleol o swyddogaethau a roddir iddynt gan—
  - (a) adran 81 (y ffyrdd y mae plant sy'n derbyn gofal i'w lletya a'u cynnal), neu
  - (b) rheoliadau a wneir o dan adran 87 (rheoliadau ynghylch plant sy'n derbyn gofal) sy'n gwneud darpariaeth megis yr hyn a grybwyllir yn adran 92(1), 93 neu 94.
- (2) Caiff rheoliadau o dan is-adran (1), er enghraifft, gynnwys darpariaeth—
  - (a) o ran y personau sy'n addas i weithio i awdurdodau lleol mewn cysylltiad ag arfer y swyddogaethau hynny,
  - (b) o ran addasrwydd y mangreoedd sydd i'w defnyddio gan awdurdodau lleol wrth arfer y swyddogaethau hynny,
  - (c) o ran rheoli'r arferiad o'r swyddogaethau hynny a'r rheolaeth ar arfer y swyddogaethau hynny,
  - (d) o ran nifer y personau, neu bersonau o fath penodol, sy'n gweithio i awdurdodau lleol mewn cysylltiad ag arfer y swyddogaethau hynny,
  - (e) o ran rheoli a hyfforddi'r personau hynny, ac
  - (f) o ran y ffioedd neu'r treuliau y caniateir iddynt gael eu talu i bersonau sy'n helpu awdurdodau lleol i wneud penderfyniadau wrth arfer y swyddogaethau hynny.
- (3) Caiff rheoliadau o dan is-adran (2)(a), yn benodol, wneud darpariaeth sy'n pennu nad yw person yn addas i weithio i awdurdod lleol mewn unrhyw swydd a bennir os nad yw'r person wedi ei gofrestru yn y gofrestr a gedwir o dan adran 80 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (cofrestru gweithwyr gofal cymdeithasol), neu mewn rhan benodol o'r gofrestr honno.

**94B Y drosedd o dorri rheoliadau o dan adran 94A**

- (1) Caiff rheoliadau ddarparu ei bod yn drosedd i berson dorri darpariaeth benodedig mewn rheoliadau a wneir o dan adran 94A neu fethu â chydymffurfio â darpariaeth o'r fath.

**58 Regulation of local authority functions relating to looked after and accommodated children**

After section 94 of the 2014 Act (regulations about agency arrangements) insert—

*“Regulation of local authority functions relating to looked after and accommodated children*

**94A Regulation of the exercise of local authority functions relating to looked after and accommodated children**

- (1) Regulations may make provision about the exercise by local authorities of functions conferred on them by—
  - (a) section 81 (ways in which looked after children are to be accommodated and maintained), or
  - (b) regulations made under section 87 (regulations about looked after children) making provision such as is mentioned in section 92(1), 93 or 94.
- (2) Regulations under subsection (1) may, for example, include provision—
  - (a) as to the persons who are fit to work for local authorities in connection with the exercise of those functions,
  - (b) as to the fitness of premises to be used by local authorities in exercising those functions,
  - (c) as to the management and control of the exercise of those functions,
  - (d) as to the number of persons, or persons of a particular type, working for local authorities in connection with the exercise of those functions,
  - (e) as to the management and training of such persons, and
  - (f) as to the fees or expenses which may be paid to persons assisting local authorities in making decisions in the exercise of those functions.
- (3) Regulations under subsection (2)(a) may, in particular, make provision specifying that a person is not fit to work for a local authority in such position as may be specified if the person is not registered in, or in a particular part of, the register kept under section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (registration of social care workers).

**94B Offence of contravening regulations under section 94A**

- (1) Regulations may provide that it is an offence for a person to contravene or fail to comply with a specified provision of regulations made under section 94A.

- (2) Mae person sy'n euog o drosedd o dan reoliadau a wneir o dan is-adran (1) yn agored –
  - (a) ar gollfarn ddiannod, i ddirwy, neu i'w garcharu am dymornad yw'n hwy na 6 mis, neu i'r ddau;
  - (b) ar gollfarn ar dditiad, i ddirwy, neu i'w garcharu am dymornad yw'n hwy na 2 flynedd, neu i'r ddau.
- (3) Mae adrannau 53 (troseddau gan gyrrff corfforaethol), 54 (troseddau gan gyrrff anghorfforedig) a 55 (achosion am droseddau) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 yn gymwys i drosedd o dan reoliadau a wneir o dan is-adran (1) fel y maent yn gymwys i droseddau o dan Ran 1 o'r Ddeddf honno."

## PENNOD 7

### TROSOLWG O'R FARCHNAD

#### 59 **Pennu meini prawf ar gyfer cymhwyso cyfundrefn trosolwg o'r farchnad**

- (1) Rhaid i Weinidogion Cymru drwy reoliadau bennu meini prawf ar gyfer dyfarnu a yw (yn ddarostyngedig i reoliadau o dan is-adran (4)) adran 61 yn gymwys i ddarparwr gwasanaeth mewn cysylltiad â gwasanaethau rheoleiddiedig.
- (2) Wrth bennu'r meini prawf, rhaid i Weinidogion Cymru roi sylw i'r materion a ganlyn yn benodol –
  - (a) faint o ofal a chymorth a ddarperir gan ddarparwr gwasanaeth,
  - (b) crynodiad daearyddol busnes darparwr gwasanaeth, ac
  - (c) y graddau y mae darparwr gwasanaeth yn arbenigo yn y ddarpariaeth o fathau penodol o wasanaeth rheoleiddiedig.
- (3) Rhaid i Weinidogion Cymru –
  - (a) ar yr adegau hynny sy'n briodol yn eu barn hwy, adolygu'r meini prawf a bennir am y tro yn y rheoliadau, a
  - (b) cyhoeddi gwybodaeth ynghylch sut y mae'r materion a grybwyllir yn is-adran (2), ac unrhyw faterion eraill y maent yn rhoi sylw iddynt wrth bennu'r meini prawf, i gael eu mesur.
- (4) Caiff Gweinidogion Cymru drwy reoliadau ddarparu nad yw adran 61 yn gymwys, neu nad yw ond yn gymwys i'r graddau a bennir, i ddarparwr gwasanaeth penodedig neu i ddarparwr gwasanaeth o ddisgrifiad penodedig, pa un a fyddai'r darparwr gwasanaeth hwnnw neu ddarparwr gwasanaeth o'r disgrifiad hwnnw yn bodloni'r meini prawf ai peidio.
- (5) Mae'r amgylchiadau pan ganiateir i reoliadau gael eu gwneud o dan is-adran (4) yn cynnwys yr amgylchiadau hynny pan fo Gweinidogion Cymru wedi eu bodloni bod darparwyr gwasanaethau penodol eisoes yn ddarostyngedig i gyfundrefn reoleiddiol sy'n gymaradwy â'r hyn y darperir ar ei chyfer yn adrannau 61 a 62; a chaiff rheoliadau a wneir o dan amgylchiadau o'r fath, er enghraifft, wneud darpariaeth sy'n ei gwneud yn ofynnol i bersonau penodedig gydweithredu neu rannu gwybodaeth o ddisgrifiad penodedig.

- (2) A person guilty of an offence under regulations made under subsection (1) is liable—
  - (a) on summary conviction, to a fine, or to imprisonment for a term not exceeding 6 months, or to both;
  - (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both.
- (3) Sections 53 (offences by bodies corporate), 54 (offences by unincorporated bodies) and 55 (proceedings for offences) of the Regulation and Inspection of Social Care (Wales) Act 2016 apply to an offence under regulations made under subsection (1) as they apply to offences under Part 1 of that Act.”

## CHAPTER 7

### MARKET OVERSIGHT

#### 59 Specifying criteria for application of market oversight regime

- (1) The Welsh Ministers must by regulations specify criteria for determining whether (subject to regulations under subsection (4)) section 61 applies to a service provider in respect of regulated services.
- (2) In specifying the criteria, the Welsh Ministers must have regard to the following in particular—
  - (a) the amount of care and support provided by a service provider,
  - (b) the geographical concentration of a service provider’s business, and
  - (c) the extent to which a service provider specialises in the provision of particular types of regulated service.
- (3) The Welsh Ministers must—
  - (a) at such times as they think appropriate, review the criteria for the time being specified in the regulations, and
  - (b) publish information about how the matters mentioned in subsection (2), and any other matters to which they have regard in specifying the criteria, are to be measured.
- (4) The Welsh Ministers may by regulations provide that section 61 does not apply, or applies only to the extent specified, to a specified service provider or to a service provider of a specified description, regardless of whether that service provider or a service provider of that description would satisfy the criteria.
- (5) The circumstances in which regulations may be made under subsection (4) include those in which the Welsh Ministers are satisfied that certain service providers are already subject to a regulatory regime comparable to that provided for by sections 61 and 62; and regulations made in such circumstances may, for example, make provision requiring specified persons to co-operate or to share information of a specified description.

- (6) Cyn gwneud rheoliadau o dan yr adran hon rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (7) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau –
  - (a) sy'n diwygio rheoliadau eraill a wneir o dan yr adran hon, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

#### **60 Dyfarnu a yw meini prawf yn gymwys i ddarparwr gwasanaeth**

- (1) Rhaid i Weinidogion Cymru ddyfarnu, yn achos pob darparwr gwasanaeth, a yw'r darparwr gwasanaeth yn bodloni un neu ragor o'r meini prawf a bennir mewn rheoliadau o dan adran 59.
- (2) Os yw Gweinidogion Cymru yn dyfarnu bod y darparwr gwasanaeth yn bodloni un neu ragor o'r meini prawf, mae adran 61 yn gymwys i'r darparwr gwasanaeth hwnnw oni bai bod, neu ac eithrio i'r graddau y mae, rheoliadau o dan adran 59(4) yn darparu nad yw'n gymwys.
- (3) Pan fo adran 61 yn gymwys i ddarparwr gwasanaeth, rhaid i Weinidogion Cymru hysbysu'r darparwr yn unol â hynny.

#### **61 Asesu cynaliadwyedd ariannol darparwr gwasanaeth**

- (1) Pan fo'r adran hon yn gymwys i ddarparwr gwasanaeth, rhaid i Weinidogion Cymru asesu cynaliadwyedd ariannol busnes y darparwr gwasanaeth o gynnal gwasanaethau rheoleiddiedig.
- (2) Rhaid i asesiad o gynaliadwyedd ariannol busnes y darparwr gwasanaeth o dan is-adran (1) gynnwys ystyriaeth o'i lywodraethu corfforaethol.
- (3) Pan fo Gweinidogion Cymru, yn sgil asesiad o dan is-adran (1), yn meddwl bod risg sylweddol i gynaliadwyedd ariannol busnes y darparwr gwasanaeth, caiff Gweinidogion Cymru –
  - (a) ei gwneud yn ofynnol i'r darparwr gwasanaeth ddatblygu cynllun o ran sut i liniaru neu i ddileu'r risg, a
  - (b) trefnu, neu ei gwneud yn ofynnol i'r darparwr gwasanaeth drefnu, i berson sydd â'r arbenigedd proffesiynol priodol gynnal adolygiad annibynnol o'r busnes.
- (4) Pan fo Gweinidogion Cymru yn gosod gofyniad ar ddarparwr gwasanaeth o dan is-adran (3)(a), cânt hefyd ei gwneud yn ofynnol i'r darparwr gwasanaeth –
  - (a) cydweithredu â hwy wrth ddatblygu'r cynllun, a
  - (b) cael eu cymeradwyaeth i'r cynllun terfynol.
- (5) Pan fo Gweinidogion Cymru yn trefnu adolygiad o dan is-adran (3)(b), caniateir iddynt adennill oddi wrth y darparwr gwasanaeth unrhyw gostau y maent yn mynd iddynt mewn cysylltiad â'r trefniadau (gan gynnwys unrhyw gostau gweinyddol ar gyfer gwneud y trefniadau y mae'n briodol eu hadennill yn eu barn hwy).

- (6) Before making regulations under this section the Welsh Ministers must consult any persons they think appropriate.
- (7) But the requirement to consult does not apply to regulations which—
  - (a) amend other regulations made under this section, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

**60 Determining whether criteria apply to service provider**

- (1) The Welsh Ministers must determine, in the case of each service provider, whether the service provider satisfies one or more of the criteria specified in regulations under section 59.
- (2) If the Welsh Ministers determine that the service provider satisfies one or more of the criteria, section 61 applies to that service provider unless, or except in so far as, regulations under section 59(4) provide that it does not apply.
- (3) Where section 61 applies to a service provider, the Welsh Ministers must inform the provider accordingly.

**61 Assessment of financial sustainability of service provider**

- (1) Where this section applies to a service provider, the Welsh Ministers must assess the financial sustainability of the service provider's business of carrying on regulated services.
- (2) An assessment of the financial sustainability of the service provider's business under subsection (1) must include consideration of its corporate governance.
- (3) Where the Welsh Ministers, in light of an assessment under subsection (1), think that there is a significant risk to the financial sustainability of the service provider's business, the Welsh Ministers may—
  - (a) require the service provider to develop a plan for how to mitigate or eliminate the risk, and
  - (b) arrange for, or require the service provider to arrange for, a person with appropriate professional expertise to carry out an independent review of the business.
- (4) Where the Welsh Ministers impose a requirement on a service provider under subsection (3)(a), they may also require the service provider—
  - (a) to co-operate with them in developing the plan, and
  - (b) to obtain their approval of the finalised plan.
- (5) Where the Welsh Ministers arrange for a review under subsection (3)(b), they may recover from the service provider such costs as they incur in connection with the arrangements (including such of their administrative costs in making the arrangements as they think it appropriate to recover).



- (6) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ar gyfer eu galluogi i gael oddi wrth unrhyw bersonau sy'n briodol yn eu barn hwy wybodaeth y maent yn credu y bydd yn eu cynorthwyo i asesu cynaliadwyedd ariannol darparwr gwasanaeth y mae'r adran hon yn gymwys iddo.
- (7) Cyn gwneud rheoliadau o dan is-adran (6) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (8) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau –
  - (a) sy'n diwygio rheoliadau eraill a wneir o dan yr is-adran honno, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.
- (9) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ynghylch gwneud yr asesiadau sy'n ofynnol gan is-adran (1).

## **62 Hysbysu awdurdodau lleol pan fo methiant darparwr gwasanaeth yn debygol**

- (1) Mae'r adran hon yn gymwys pan fo Gweinidogion Cymru wedi eu bodloni bod darparwr gwasanaeth y mae adran 61 yn gymwys iddo yn debygol o beidio â gallu darparu gwasanaeth rheoleiddiedig y mae wedi ei gofrestru mewn cysylltiad ag ef oherwydd methiant busnes fel a grybwyllir yn adran 189 o Ddeddf 2014 (methiant darparwr: dyletswydd dros dro ar awdurdod lleol).
- (2) Rhaid i Weinidogion Cymru hysbysu'r awdurdodau lleol y maent yn meddwl y bydd yn ofynnol iddynt gyflawni'r ddyletswydd o dan adran 189(2) o Ddeddf 2014 os yw'r darparwr gwasanaeth yn peidio â gallu darparu'r gwasanaeth rheoleiddiedig o dan sylw.
- (3) Caiff Gweinidogion Cymru ei gwneud yn ofynnol i'r darparwr gwasanaeth, neu unrhyw berson arall sy'n ymwneud â busnes y darparwr gwasanaeth sy'n briodol yn eu barn hwy, ddarparu unrhyw wybodaeth y maent yn meddwl ei bod yn angenrheidiol neu'n hwylus iddynt ei chael at ddiben cynorthwyo awdurdod lleol i gyflawni'r ddyletswydd o dan adran 189(2) o Ddeddf 2014.
- (4) Ond ni chaiff Gweinidogion Cymru ei gwneud yn ofynnol i berson ddarparu gwybodaeth os yw datgelu'r wybodaeth honno wedi ei wahardd drwy unrhyw ddeddfiad neu reol gyfreithiol arall.
- (5) Mae'r pŵer i'w gwneud yn ofynnol i wybodaeth gael ei darparu o dan is-adran (3) yn cynnwys –
  - (a) pŵer i'w gwneud yn ofynnol i gopïau gael eu darparu o unrhyw ddogfennau neu gofnodion (gan gynnwys cofnodion meddygol a chofnodion personol eraill), a
  - (b) pŵer i'w gwneud yn ofynnol i'r wybodaeth gael ei darparu ar ffurf ddarllenadwy.

## **63 Adroddiad ar sefydlogrwydd y farchnad genedlaethol**

- (1) Rhaid i Weinidogion Cymru lunio a chyhoeddi adroddiad ar sefydlogrwydd y farchnad genedlaethol ar unrhyw adegau a ragnodir.
- (2) Rhaid i Weinidogion Cymru ymgynghori â GCC wrth lunio adroddiad ar sefydlogrwydd y farchnad genedlaethol a chânt gyfarwyddo GCC i lunio ar y cyd â hwy unrhyw ran o'r adroddiad sy'n briodol ym marn Gweinidogion Cymru.

- (6) The Welsh Ministers may by regulations make provision for enabling them to obtain from such persons as they think appropriate information which they believe will assist them to assess the financial sustainability of a service provider to which this section applies.
- (7) Before making regulations under subsection (6) the Welsh Ministers must consult any persons they think appropriate.
- (8) But the requirement to consult does not apply to regulations which—
  - (a) amend other regulations made under that subsection, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.
- (9) The Welsh Ministers may by regulations make provision about the making of the assessments required by subsection (1).

## **62 Informing local authorities where failure of service provider likely**

- (1) This section applies where the Welsh Ministers are satisfied that a service provider to which section 61 applies is likely to become unable to provide a regulated service in respect of which it is registered because of business failure as mentioned in section 189 of the 2014 Act (provider failure: temporary duty on local authority).
- (2) The Welsh Ministers must inform the local authorities which they think will be required to carry out the duty under section 189(2) of the 2014 Act if the service provider becomes unable to provide the regulated service in question.
- (3) The Welsh Ministers may require the service provider, or such other person involved in the service provider's business as they think appropriate, to provide them with any information they think necessary or expedient to obtain for the purpose of assisting a local authority to carry out the duty under section 189(2) of the 2014 Act.
- (4) But the Welsh Ministers may not require a person to provide information if disclosure of that information is prohibited by any enactment or other rule of law.
- (5) The power to require information under subsection (3) includes—
  - (a) power to require copies of any documents or records (including medical and other personal records), and
  - (b) power to require the provision of information in legible form.

## **63 National market stability report**

- (1) The Welsh Ministers must prepare and publish a national market stability report at such times as may be prescribed.
- (2) The Welsh Ministers must consult SCW when preparing a national market stability report and may direct SCW to jointly prepare any part of the report with them as the Welsh Ministers think appropriate.

- (3) Rhaid i adroddiad ar sefydlogrwydd y farchnad genedlaethol gynnwys –
- (a) asesiad –
    - (i) o ddigonolrwydd y gofal a'r cymorth (o fewn ystyr Deddf 2014) a ddarperir yng Nghymru yn ystod unrhyw gyfnod a ragnodir,
    - (ii) o'r graddau y darparwyd gwasanaethau rheoleiddiedig yng Nghymru yn ystod y cyfnod rhagnodedig hwnnw gan ddarparwyr gwasanaethau y mae adran 61 yn gymwys iddynt,
    - (iii) effaith comisiynu gwasanaethau gan awdurdodau lleol mewn cysylltiad â swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol (o fewn ystyr Deddf 2014) ar arferiad y swyddogaethau hynny yn ystod unrhyw gyfnod a ragnodir, a
    - (iv) o unrhyw fater arall sy'n ymwneud â'r ddarpariaeth o ofal a chymorth yng Nghymru a ragnodir, a
  - (b) adroddiad ar unrhyw gamau a gymerwyd gan Weinidogion Cymru o dan adrannau 59 i 62 yn ystod y cyfnod a ragnodir o dan baragraff (a)(i).
- (4) Wrth lunio adroddiad ar sefydlogrwydd y farchnad, rhaid i Weinidogion Cymru roi sylw i'r adroddiad diweddaraf ar sefydlogrwydd y farchnad leol a gyhoeddwyd gan bob awdurdod lleol o dan adran 144B o Ddeddf 2014 (adroddiadau ar sefydlogrwydd y farchnad leol).
- (5) Cyn gwneud rheoliadau o dan is-adran (3)(a)(iv) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (6) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau –
- (a) sy'n diwygio rheoliadau eraill a wneir o dan yr is-adran honno, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

## PENNOD 8

### DEHONGLI

#### 64 Dehongli'r Rhan hon

- (1) Yn y Rhan hon –

mae i "cymorth" ("*support*") yr ystyr a roddir gan adran 3(1)(d);

mae i "darparwr gwasanaeth" ("*service provider*") yr ystyr a roddir gan adran 3(1)(c);

mae i "gofal" ("*care*") yr ystyr a roddir gan adran 3(1)(a);

mae "gofal a chymorth" ("*care and support*") i'w ddehongli (ac eithrio yn adran 63(3)(a)(i)) yn unol ag adran 3(2);

mae i "gwasanaeth rheoleiddiedig" ("*regulated service*") yr ystyr a roddir gan adran 2(1);

mae i "swyddogaethau rheoleiddiol" ("*regulatory functions*"), mewn perthynas â Gweinidogion Cymru, yr ystyr a roddir gan adran 3(1)(b);

- (3) A national market stability report must include –
- (a) an assessment of –
    - (i) the sufficiency of care and support (within the meaning of the 2014 Act) provided in Wales during such period as may be prescribed,
    - (ii) the extent to which regulated services were provided in Wales during that prescribed period by service providers to whom section 61 applies,
    - (iii) the effect on the exercise of local authority social services functions (within the meaning of the 2014 Act) of the commissioning by local authorities of services in connection with those functions during such period as may be prescribed, and
    - (iv) any other matter relating to the provision of care and support in Wales as may be prescribed, and
  - (b) a report of any action taken by the Welsh Ministers under sections 59 to 62 during the period prescribed under paragraph (a)(i).
- (4) In preparing a market stability report the Welsh Ministers must have regard to the most recent local market stability report published by each local authority under section 144B of the 2014 Act (local market stability reports).
- (5) Before making regulations under subsection (3)(a)(iv) the Welsh Ministers must consult any persons they think appropriate.
- (6) But the requirement to consult does not apply to regulations which –
- (a) amend other regulations made under that subsection, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

## CHAPTER 8

### INTERPRETATION

#### 64 Interpretation of this Part

- (1) In this Part –
- “care” (*“gofal”*) has the meaning given by section 3(1)(a);
- “care and support” (*“gofal a chymorth”*) is to be interpreted (other than in section 63(3)(a)(i)) in accordance with section 3(2);
- “regulated service” (*“gwasanaeth rheoleiddiedig”*) has the meaning given by section 2(1);
- “regulatory functions” (*“swyddogaethau rheoleiddiol”*), in relation to the Welsh Ministers, has the meaning given by section 3(1)(b);
- “responsible individual” (*“unigolyn cyfrifol”*) has the meaning given by section 21(1);
- “service provider” (*“darparwr gwasanaeth”*) has the meaning given by section 3(1)(c);

mae i “unigolyn cyfrifol” (“*responsible individual*”) yr ystyr a roddir gan adran 21(1).

- (2) Gweler adran 189 sy’n gwneud darpariaeth ar gyfer dehongli’r geiriau a’r ymadroddion sy’n gymwys i’r Ddeddf gyfan.

## RHAN 2

### TROSOLWIG O RANNAU 3 I 8 A’U DEHONGLI

#### 65 Trosolwg o Rannau 3 i 8

- (1) Mae’r adran hon yn rhoi trosolwg o brif ddarpariaethau Rhannau 3 i 8 o’r Ddeddf hon.
- (2) Mae Rhan 3—
- (a) yn rhoi’r enw newydd Gofal Cymdeithasol Cymru (a ddiffinnir gan adran 67 fel “GCC”) i Gyngor Gofal Cymru, a
  - (b) yn gwneud darpariaeth ar gyfer ei swyddogaethau cyffredinol (gweler, yn benodol, adrannau 68 i 72, gan gynnwys y ddarpariaeth yn Atodlen 2 ynghylch cyfansoddiad GCC a materion eraill sy’n berthnasol i’w weithrediad cyffredinol).
- (3) Mae Rhannau 4 i 6 yn rhoi swyddogaethau i GCC mewn perthynas â rheoleiddio gweithwyr cymdeithasol a phersonau eraill sy’n ymgymryd â darparu gofal a chymorth i bersonau yng Nghymru (sydd wedi eu diffinio, ar y cyd, fel “gweithwyr gofal cymdeithasol” gan adran 79(1)); gan gynnwys—
- (a) dyletswydd i gadw cofrestr o weithwyr gofal cymdeithasol penodol, gan gynnwys gweithwyr cymdeithasol (gweler, yn benodol, adran 80 o Ran 4);
  - (b) gofyniad yn adran 81 i GCC benodi cofrestrydd i brosesu ceisiadau ar gyfer cofrestru yn y gofrestr ac fel arall i arfer swyddogaethau o dan Ran 4 mewn perthynas â’r gofrestr, gan gynnwys y swyddogaeth o benderfynu, o dan adran 83, a ddylai personau gael eu derbyn i’r gofrestr.
- (4) Mae Rhannau 4 i 6 hefyd yn nodi’r gofynion y mae rhaid eu bodloni er mwyn dod yn gofrestredig a pharhau’n gofrestredig; gan gynnwys—
- (a) gofyniad bod y cofrestrydd wedi ei fodloni bod person wedi ei gymhwyso, neu wedi ei hyfforddi’n briodol fel arall, i fod yn weithiwr gofal cymdeithasol (gweler adran 83 am hyn),
  - (b) y rhwymedigaethau sydd i’w cyflawni gan bersonau sydd wedi eu cofrestru yn y gofrestr mewn cysylltiad â datblygiad proffesiynol parhaus (gweler adran 113 o Ran 5), ac
  - (c) rhwymedigaethau mewn cysylltiad ag addasrwydd i ymarfer fel gweithiwr gofal cymdeithasol.
- (5) Mae adran 117 o Bennod 1 o Ran 6 yn nodi’r seiliau dros amhariad posibl ar addasrwydd person i ymarfer at ddibenion bod yn gofrestredig, a pharhau’n gofrestredig; gan gynnwys perfformiad diffygiol fel gweithiwr gofal cymdeithasol a chamymddwyn difrifol mewn unrhyw rinwedd.

“support” (“*cymorth*”) has the meaning given by section 3(1)(d).

- (2) See section 189 which makes provision for the interpretation of words and phrases applying to the whole Act.

## PART 2

### OVERVIEW AND INTERPRETATION OF PARTS 3 TO 8

#### 65 Overview of Parts 3 to 8

- (1) This section provides an overview of the main provisions of Parts 3 to 8 of this Act.
- (2) Part 3—
  - (a) renames the Care Council for Wales as Social Care Wales (defined by section 67 as “SCW”), and
  - (b) makes provision for its general functions (see, in particular, sections 68 to 72, including the provision in Schedule 2 about SCW’s constitution and other matters relevant to its general operation).
- (3) Parts 4 to 6 confer functions on SCW in relation to the regulation of social workers and other persons engaged in the provision of care and support to persons in Wales (defined, collectively, as “social care workers” by section 79(1)); including—
  - (a) a duty to keep a register of certain social care workers, including social workers (see, in particular, section 80 of Part 4);
  - (b) a requirement in section 81 for SCW to appoint a registrar to process applications for registration in the register and to otherwise exercise functions under Part 4 in relation to the register, including the function of deciding, under section 83, whether persons should be admitted to the register.
- (4) Parts 4 to 6 also set out the requirements which must be met to become, and to remain, registered; including—
  - (a) a requirement that the registrar be satisfied that a person is qualified, or otherwise appropriately trained, to be a social care worker (on which, see section 83),
  - (b) obligations to be met by persons registered in the register in respect of continual professional development (see section 113 of Part 5), and
  - (c) obligations in respect of fitness to practise as a social care worker.
- (5) Section 117 in Chapter 1 of Part 6 sets out the grounds of potential impairment of a person’s fitness to practise for the purposes of being, and remaining, registered; including deficient performance as a social care worker and serious misconduct in any capacity.

- (6) Mae Pennod 2 o Ran 6 yn darparu ar gyfer system o ystyriaeth ragarweiniol ac, os oes angen, ymchwiliad gan neu ar ran GCC o ran a all fod amhariad ar addasrwydd gweithiwr gofal cymdeithasol cofrestredig i ymarfer, ac ar gyfer atgyfeirio achosion penodol i banel addasrwydd i ymarfer.
- (7) Mae Rhan 8 yn ei gwneud yn ofynnol i GCC sefydlu paneli a fydd yn dyfarnu a ddylid derbyn person i'r gofrestr neu ei dynnu oddi arni; yn benodol—
  - (a) paneli i wneud dyfarniadau o dan Ran 4, gan gynnwys dyfarniadau ynghylch penderfyniadau a wneir gan y cofrestrydd (a ddiffinnir gan adran 174 o Ran 8 fel "paneli apelau cofrestru"),
  - (b) paneli i wneud dyfarniadau mewn perthynas ag addasrwydd gweithiwr gofal cymdeithasol cofrestredig i ymarfer drwy gyfeirio at y seiliau amhariad posibl yn adran 117 (a ddiffinnir gan adran 174 o Ran 8 fel "paneli addasrwydd i ymarfer"), ac
  - (c) paneli i wneud penderfyniadau wrth aros am ddyfarniad ar fater gan baneli apelau cofrestru neu baneli addasrwydd i ymarfer (a ddiffinnir gan adran 174 o Ran 8 fel "paneli gorchmynion interim").
- (8) Mae Pennod 3 o Ran 6 yn gwneud darpariaeth ynghylch y ffyrdd y caiff paneli addasrwydd i ymarfer waredu achosion pan fo amheuan ynghylch addasrwydd person i ymarfer, gan gynnwys darpariaeth sy'n caniatáu i baneli dynnu person oddi ar y gofrestr neu ei atal dros dro o'r gofrestr; ac mae Pennod 5 o Ran 6 yn gwneud darpariaeth ynghylch yr adolygiad cyfnodol gan banel addasrwydd i ymarfer o addasrwydd i ymarfer bersonau sydd wedi bod yn ddarostyngedig i achosion o dan Bennod 3 o'r Rhan honno.
- (9) Mae adran 104 o Ran 4 yn gwneud darpariaeth ynghylch apelau i'r tribiwnlys Haen Gyntaf yn erbyn penderfyniadau a wneir o dan y Rhan honno sy'n ymwneud â chofrestru, tra bo Pennod 6 o Ran 6 yn darparu ar gyfer apelau i'r tribiwnlys yn erbyn dyfarniadau paneli addasrwydd i ymarfer o dan y Rhan honno.
- (10) Mae adran 111 o Ran 4 yn ei gwneud yn drosedd i berson yng Nghymru fwriadu twyllo rhywun drwy esgus bod yn weithiwr cymdeithasol cofrestredig, ac yn rhinwedd rheoliadau yn ei gwneud yn drosedd i berson fwriadu twyllo rhywun drwy esgus bod yn fath arall o weithiwr gofal cymdeithasol cofrestredig.
- (11) Mae Rhan 7 yn caniatáu i Weinidogion Cymru drwy reoliadau awdurdodi paneli addasrwydd i ymarfer i wahardd gweithwyr gofal cymdeithasol nad yw rhan o'r gofrestr yn cael ei chadw mewn cysylltiad â hwy rhag cyflawni gweithgareddau a bennir yn y rheoliadau, ac yn gwneud darpariaeth gysylltiedig, gan gynnwys ei gwneud yn drosedd i weithiwr gofal cymdeithasol gyflawni'r gweithgareddau hynny tra ei fod yn ddarostyngedig i waharddiad.
- (12) Yn ogystal â gwneud darpariaeth ynghylch datblygiad proffesiynol parhaus, mae Rhan 5 yn gwneud darpariaeth ynghylch swyddogaethau eraill GCC mewn cysylltiad ag addysg a hyfforddiant gweithwyr gofal cymdeithasol, gan gynnwys darpariaeth ynghylch cymeradwyo gan GCC gyrsiau ar gyfer personau sy'n weithwyr gofal cymdeithasol neu sy'n dymuno dod yn weithwyr gofal cymdeithasol (gweler adran 114).

- (6) Chapter 2 of Part 6 provides for a system of preliminary consideration and, if necessary, investigation by or on behalf of SCW into whether a registered social care worker's fitness to practise may be impaired, and for the referral of certain cases to a fitness to practise panel.
- (7) Part 8 requires SCW to establish panels which will determine whether a person should be admitted to, or removed from, the register; in particular –
  - (a) panels to make determinations under Part 4, including determinations about decisions made by the registrar (defined by section 174 of Part 8 as “registration appeals panels”),
  - (b) panels to make determinations in relation to a registered social care worker's fitness to practise by reference to the grounds of potential impairment in section 117 (defined by section 174 of Part 8 as “fitness to practise panels”), and
  - (c) panels to make decisions pending determination of a matter by registration appeals panels or fitness to practise panels (defined by section 174 of Part 8 as “interim orders panels”).
- (8) Chapter 3 of Part 6 makes provision about the ways in which fitness to practise panels may dispose of cases in which a person's fitness to practise is in question, including provision allowing panels to remove or suspend a person from the register; and Chapter 5 of Part 6 makes provision about the periodic review by a fitness to practise panel of the fitness to practise of persons who have been subject to proceedings under Chapter 3 of that Part.
- (9) Section 104 of Part 4 makes provision about appeals to the First-tier tribunal against decisions made under that Part relating to registration, while Chapter 6 of Part 6 provides for appeals to the tribunal against the determinations of fitness to practise panels under that Part.
- (10) Section 111 of Part 4 makes it an offence for a person in Wales to intend to deceive someone by pretending to be a registered social worker, and by virtue of regulations makes it an offence for a person to intend to deceive someone by pretending to be another kind of registered social care worker.
- (11) Part 7 allows the Welsh Ministers by regulations to authorise fitness to practise panels to prohibit social care workers in respect of whom a part of the register is not kept from carrying out activities specified in the regulations, and makes connected provision, including making it an offence to carry out those activities while subject to prohibition.
- (12) In addition to making provision about continual professional development, Part 5 makes provision about other functions of SCW in respect of the education and training of social care workers, including provision about the approval by SCW of courses for persons who are or wish to become social care workers (see section 114).



**66 Dehongli Rhannau 3 i 8**

(1) Yn Rhannau 3 i 8 o'r Ddeddf hon—

ystyr "cofrestr" ("*register*") yw'r gofrestr a gedwir o dan adran 80;

ystyr "cofrestrydd" ("*registrar*") yw person a benodir fel cofrestrydd o dan adran 81;

mae i "gwaith cymdeithasol perthnasol" ("*relevant social work*") yr ystyr a roddir gan adran 79(4);

mae i "gweithiwr cymdeithasol" ("*social worker*") yr ystyr a roddir gan adran 79(1);

mae i "gweithiwr gofal cymdeithasol" ("*social care worker*") yr ystyr a roddir gan adran 79;

mae i "gwladolyn" ("*national*"), mewn perthynas â Gwladwriaeth Ewropeaidd berthnasol, yr ystyr a roddir gan adran 90(8);

mae i "Gwladwriaeth Ewropeaidd berthnasol" ("*relevant European State*") yr ystyr a roddir gan adran 90(8);

ystyr "panel addasrwydd i ymarfer" ("*fitness to practise panel*") yw panel a sefydlir yn rhinwedd adran 174(1)(b);

ystyr "panel apelau cofrestru" ("*registration appeals panel*") yw panel a sefydlir yn rhinwedd adran 174(1)(a);

ystyr "panel gorchmynion interim" ("*interim orders panel*") yw panel a sefydlir yn rhinwedd adran 174(1)(c);

mae i "person esempt" ("*exempt person*") yr ystyr a roddir gan adran 90(8);

mae'r "rhan gweithwyr cymdeithasol" ("*social worker part*"), mewn perthynas â'r gofrestr, i'w ddehongli yn unol ag adran 80(3);

mae "rhan ychwanegol" ("*added part*"), mewn perthynas â'r gofrestr, i'w ddehongli yn unol ag adran 80(3);

mae'r "rhan ymwelwyr Ewropeaidd" ("*visiting European part*"), mewn perthynas â'r gofrestr, i'w ddehongli yn unol ag adran 80(3);

mae i "y Rheoliadau Systemau Cyffredinol" ("*the General Systems Regulations*") yr ystyr a roddir gan adran 90(8).

(2) Gweler adran 189 am ddarpariaeth ynghylch dehongli'r geiriau a'r ymadroddion sy'n gymwys i'r Ddeddf gyfan.

**RHAN 3****GOFAL CYMDEITHASOL CYMRU**

*Parhad Cyngor Gofal Cymru a'i ailenwi*

**67 Gofal Cymdeithasol Cymru**

(1) Mae adran 54 o Ddeddf Safonau Gofal 2000 (p.14) wedi ei diddymu.

**66 Interpretation of Parts 3 to 8**

(1) In Parts 3 to 8 of this Act—

“added part” (*“rhan ychwanegol”*), in relation to the register, is to be interpreted in accordance with section 80(3);

“exempt person” (*“person esempt”*) has the meaning given by section 90(8);

“fitness to practise panel” (*“panel addasrwydd i ymarfer”*) means a panel established by virtue of section 174(1)(b);

“the General Systems Regulations” (*“y Rheoliadau Systemau Cyffredinol”*) has the meaning given by section 90(8);

“interim orders panel” (*“panel gorchmynion interim”*) means a panel established by virtue of section 174(1)(c);

“national” (*“gwladolyn”*), in relation to a relevant European State, has the meaning given by section 90(8);

“register” (*“cofrestr”*) means the register kept under section 80;

“registrar” (*“cofrestrydd”*) means a person appointed as registrar under section 81;

“registration appeals panel” (*“panel apelau cofrestru”*) means a panel established by virtue of section 174(1)(a);

“relevant European State” (*“Gwladwriaeth Ewropeaidd berthnasol”*) has the meaning given by section 90(8);

“relevant social work” (*“gwaith cymdeithasol perthnasol”*) has the meaning given by section 79(4);

“social care worker” (*“gweithiwr gofal cymdeithasol”*) has the meaning given by section 79;

“social worker” (*“gweithiwr cymdeithasol”*) has the meaning given by section 79(1);

“social worker part” (*“rhan gweithwyr cymdeithasol”*), in relation to the register, is to be interpreted in accordance with section 80(3);

“visiting European part” (*“rhan ymwelwyr Ewropeaidd”*), in relation to the register, is to be interpreted in accordance with section 80(3).

(2) See section 189 for provision about the interpretation of words and phrases applying to the whole Act.

**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) Mae'r corff corfforaethol a elwir Cyngor Gofal Cymru a sefydlwyd gan yr adran honno i barhau i fodoli.
- (3) Ond mae wedi ei ailenwi, a'i enw yw Gofal Cymdeithasol Cymru (y cyfeirir ato yn y Ddeddf hon fel "GCC").
- (4) Mae Atodlen 2 yn gwneud darpariaeth bellach ynghylch GCC.

*Amcanion GCC*

**68 Amcanion GCC**

- (1) Prif amcan GCC wrth gyflawni ei swyddogaethau yw diogelu, hybu a chynnal diogelwch a llesiant y cyhoedd yng Nghymru.
- (2) Wrth gyflawni'r amcan hwnnw, rhaid i GCC arfer ei swyddogaethau gyda golwg ar hybu a chynnal –
  - (a) safonau uchel yn y ddarpariaeth o wasanaethau gofal a chymorth,
  - (b) safonau uchel o ymddygiad ac ymarfer ymhlith gweithwyr gofal cymdeithasol,
  - (c) safonau uchel o ran hyfforddi gweithwyr gofal cymdeithasol, a
  - (d) hyder y cyhoedd mewn gweithwyr gofal cymdeithasol.
- (3) Gweler adran 69 am ystyr "gwasanaethau gofal a chymorth" ac adran 79 am ystyr "gweithiwr gofal cymdeithasol".

*Cyngor a chynhorthwy*

**69 Cyngor a chynhorthwy mewn perthynas â gwasanaethau gofal a chymorth**

- (1) Caiff GCC roi cyngor neu gynhorthwy arall (gan gynnwys grantiau) i unrhyw berson sy'n darparu gwasanaeth gofal a chymorth at ddiben annog gwelliant yn y ddarpariaeth o'r gwasanaeth hwnnw.
- (2) Caiff GCC atodi unrhyw amodau i grant a roddir o dan is-adran (1) sy'n briodol yn ei farn ef.
- (3) Ystyr "gwasanaeth gofal a chymorth" yw –
  - (a) gwasanaeth rheoleiddiedig, neu
  - (b) unrhyw wasanaeth arall yng Nghymru sy'n ymwneud â'r ddarpariaeth o ofal a chymorth gan weithwyr gofal cymdeithasol.
- (4) Gweler adran 2 am ystyr "gwasanaeth rheoleiddiedig" ac adran 3 am ystyr "gofal a chymorth".

**70 Astudiaethau o ran darbodaeth, effeithlonrwydd etc.**

Caiff GCC hybu neu gynnal astudiaethau cymharol neu astudiaethau eraill sydd wedi eu dylunio er mwyn ei alluogi i wneud argymhellion o dan adran 69 ar gyfer gwella darbodaeth, effeithlonrwydd ac effeithiolrwydd yn y ddarpariaeth o wasanaeth gofal a chymorth.

- (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.

*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.
- (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”.

*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”.

**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.

*Ymgysylltu â'r cyhoedd etc.***71 Ymgysylltu â'r cyhoedd a gweithwyr gofal cymdeithasol**

- (1) Rhaid i GCC –
  - (a) rhoi gwybodaeth am GCC a'r arferiad o'i swyddogaethau ar gael i –
    - (i) y cyhoedd, a
    - (ii) gweithwyr gofal cymdeithasol;
  - (b) llunio a chyhoeddi datganiad o'i bolisi mewn cysylltiad â chynnwys y cyhoedd a gweithwyr gofal cymdeithasol yn yr arferiad o'r swyddogaethau hynny (pa un ai drwy ymgynghoriad neu drwy ddulliau eraill).
- (2) O ran GCC –
  - (a) caiff ddiwygio ei ddatganiad polisi a rhaid iddo gyhoeddi'r datganiad diwygiedig, neu
  - (b) caiff gyhoeddi datganiad polisi newydd.
- (3) Rhaid i GCC roi sylw i'r datganiad polisi diweddaraf a gyhoeddwyd o dan yr adran hon wrth arfer ei swyddogaethau.

*Polisi mewn cysylltiad â dwyn achosion troseddol***72 Datganiad polisi mewn cysylltiad â dwyn achosion troseddol**

- (1) Rhaid i GCC lunio a chyhoeddi datganiad o'i bolisi mewn cysylltiad â dwyn achosion troseddol ganddo.
- (2) Caiff GCC –
  - (a) diwygio ei ddatganiad polisi a chyhoeddi'r datganiad diwygiedig, neu
  - (b) cyhoeddi datganiad polisi newydd.
- (3) Rhaid i GCC roi sylw i'r datganiad polisi diweddaraf a gyhoeddwyd o dan yr adran hon wrth arfer ei swyddogaethau.

*Rheolau a wneir gan GCC o dan y Ddeddf hon***73 Rheolau: cyffredinol**

- (1) Rhaid i unrhyw bŵer a roddir i GCC gan neu o dan y Ddeddf hon i wneud rheolau gael ei arfer yn ysgrifenedig drwy offeryn.
- (2) Rhaid i offeryn sy'n cynnwys rheolau bennu'r ddarpariaeth y gwneir y rheolau odani.
- (3) I'r graddau nad yw offeryn sy'n cynnwys rheolau yn cydymffurfio ag is-adran (2) mae'n ddi-rym.
- (4) Caniateir i unrhyw bŵer sydd gan GCC i wneud rheolau a roddir gan neu o dan y Ddeddf hon gael ei arfer –
  - (a) er mwyn gwneud darpariaeth wahanol at ddibenion gwahanol;
  - (b) er mwyn gwneud darpariaeth gysylltiedig, atodol, ganlyniadol a throsiannol.

*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.

*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.

*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.
- (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) Rhaid i GCC –
  - (a) cyhoeddi rheolau a wneir ganddo, a
  - (b) sicrhau bod y rheolau ar gael yn gyhoeddus hyd nes y byddant yn peidio â chael effaith.
- (6) Caiff GCC godi ffi am ddarparu i berson gopi o'r rheolau a wneir ganddo.

#### **74 Rheolau: ffioedd**

- (1) Caiff GCC drwy reolau wneud darpariaeth ar gyfer talu ffioedd i GCC mewn cysylltiad â chyflawni swyddogaethau gan –
  - (a) GCC;
  - (b) y cofrestrydd (gweler adran 81).
- (2) Yn benodol, caiff y rheolau wneud darpariaeth ar gyfer talu ffioedd mewn cysylltiad ag –
  - (a) darparu cyngor neu gynhorthwy arall o dan adran 69;
  - (b) cofrestru yn y gofrestr (gweler Rhan 4);
  - (c) cymeradwyo cyrsiau o dan adran 114 (cymeradwyo cyrsiau i bersonau sy'n weithwyr gofal cymdeithasol neu sy'n dymuno dod yn weithwyr gofal cymdeithasol);
  - (d) darparu hyfforddiant o dan adran 116 (hyfforddiant a ddarperir neu a sicrheir gan GCC);
  - (e) darparu copïau o godau ymarfer neu gopïau o'r gofrestr neu ddarnau ohoni.
- (3) Ond ni chaiff y rheolau wneud darpariaeth ar gyfer talu ffioedd mewn cysylltiad â chofrestru ar y rhan ymwelwyr Ewropeaidd o'r gofrestr.

*Ymgynghori cyn gwneud rheolau etc.*

#### **75 Ymgynghori cyn gwneud rheolau etc.**

- (1) Rhaid i GCC gydymffurfio â gofynion is-adran (2) –
  - (a) cyn gwneud unrhyw reolau o dan y Ddeddf hon;
  - (b) cyn cyhoeddi cod ymarfer o dan adran 112 (codau sy'n pennu'r safonau ymddygiad a ddisgwylir oddi wrth weithwyr gofal cymdeithasol a'u cyflogwyr);
  - (c) cyn cyhoeddi canllawiau o dan adran 162 (canllawiau i baneli addasrwydd i ymarfer a phaneli gorchmynion interim mewn cysylltiad ag achosion o dan Ran 6),
 oni bai bod is-adran (3) yn gymwys.
- (2) Cyn gwneud y rheolau neu gyhoeddi'r cod neu ganllawiau rhaid i GCC –
  - (a) cyhoeddi drafft o'r rheolau, cod neu ganllawiau arfaethedig yn ogystal ag –
    - (i) esboniad o ddiben y rheolau, cod neu ganllawiau arfaethedig a chrynodeb o effaith fwriadedig y rheolau, cod neu ganllawiau arfaethedig;

- (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.

**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.

*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) hysbysiad sy'n pennu'r cyfnod ar gyfer caniatáu i sylwadau gael eu cyflwyno i GCC ynghylch y cynnig, a
- (b) cymryd camau rhesymol i roi hysbysiad o'r cynnig a'r cyfnod ar gyfer cyflwyno sylwadau i—
  - (i) gweithwyr gofal cymdeithasol y mae GCC yn meddwl y gall y cynnig effeithio arnynt,
  - (ii) Gweinidogion Cymru, a
  - (iii) unrhyw bersonau eraill sy'n briodol ym marn GCC.
- (3) Mae'r is-adran hon yn gymwys os yw GCC—
  - (a) wedi ei fodloni bod natur y rheolau, cod neu ganllawiau arfaethedig o'r fath fel y byddai ymgynghori yn amhriodol neu'n anghymesur, a
  - (b) wedi cael cytundeb Gweinidogion Cymru i fwrw ymlaen heb ymgynghori.
- (4) Nid yw adran 184 (cyflwyno dogfennau etc.) yn gymwys i unrhyw beth a wneir gan GCC o dan is-adran (2).

*Canllawiau a chyfarwyddydau***76 Canllawiau**

- (1) Wrth arfer ei swyddogaethau rhaid i GCC roi sylw i unrhyw ganllawiau a roddir iddo gan Weinidogion Cymru.
- (2) Rhaid i Weinidogion Cymru gyhoeddi unrhyw ganllawiau a roddant i GCC.

**77 Cyfarwyddydau**

- (1) Wrth arfer ei swyddogaethau rhaid i GCC gydymffurfio ag unrhyw gyfarwyddydau a roddir iddo gan Weinidogion Cymru.
- (2) O ran cyfarwyddyd—
  - (a) rhaid iddo fod yn ysgrifenedig;
  - (b) caniateir iddo gael ei amrywio neu ei ddirymu drwy gyfarwyddyd dilynol.

*Pwerau diofyn Gweinidogion Cymru***78 Pwerau diofyn Gweinidogion Cymru**

- (1) Mae'r pwerau a roddir gan yr adran hon yn arferadwy gan Weinidogion Cymru os ydynt wedi eu bodloni bod GCC—
  - (a) wedi methu heb esgus rhesymol â chyflawni unrhyw un neu ragor o'i swyddogaethau, neu
  - (b) wrth gyflawni unrhyw un neu ragor o'i swyddogaethau, wedi methu heb esgus rhesymol â chydymffurfio ag unrhyw gyfarwyddydau a roddir gan Weinidogion Cymru o dan adran 77 mewn perthynas â'r swyddogaethau hynny.
- (2) Caiff Gweinidogion Cymru—
  - (a) cyhoeddi datganiad sy'n datgan bod GCC wedi methu, a

- (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).

*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.

**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.

*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) cyfarwyddo GCC i gyflawni unrhyw un neu ragor o'i swyddogaethau, mewn unrhyw fodd ac o fewn unrhyw gyfnod neu gyfnodau, a bennir yn y cyfarwyddyd.
- (3) Os yw GCC yn methu â chydymffurfio â chyfarwyddyd a roddir o dan is-adran (2)(b), caiff Gweinidogion Cymru –
  - (a) cyflawni'r swyddogaethau y mae'r cyfarwyddyd yn ymwneud â hwy eu hunain, neu
  - (b) gwneud trefniadau i unrhyw berson arall gyflawni'r swyddogaethau hynny ar eu rhan.
- (4) O ran cyfarwyddyd o dan is-adran (2)(b) –
  - (a) rhaid iddo fod yn ysgrifenedig;
  - (b) caniateir iddo gael ei amrywio neu ei ddirymu drwy gyfarwyddyd dilynol.

## RHAN 4

### GWEITHWYR GOFAL CYMDEITHASOL

*Ystyr "gweithiwr gofal cymdeithasol" etc.*

#### 79 Ystyr "gweithiwr gofal cymdeithasol" etc.

- (1) Yn Rhannau 3 i 8 o'r Ddeddf hon ystyr "gweithiwr gofal cymdeithasol" yw person –
  - (a) sy'n ymgymryd â gwaith cymdeithasol perthnasol (y cyfeirir ato yn y Rhannau hynny fel "gweithiwr cymdeithasol");
  - (b) sy'n rheoli man y darperir gwasanaeth rheoleiddiedig ynddo neu ohono;
  - (c) sydd, yn ystod ei gyflogaeth gyda darparwr gwasanaeth, yn darparu gofal a chymorth i unrhyw berson yng Nghymru mewn cysylltiad â gwasanaeth rheoleiddiedig a ddarperir gan y darparwr hwnnw;
  - (d) sydd, o dan gontract am wasanaethau, yn darparu gofal a chymorth i unrhyw berson yng Nghymru mewn cysylltiad â gwasanaeth rheoleiddiedig a ddarperir gan ddarparwr gwasanaeth.
- (2) Caiff Gweinidogion Cymru drwy reoliadau –
  - (a) eithrio personau o ddisgrifiad penodedig o'r diffiniad o weithiwr gofal cymdeithasol yn is-adran (1);
  - (b) darparu bod personau o unrhyw un neu ragor o'r disgrifiadau yn is-adran (3), neu gategoriâu o berson sy'n dod o fewn unrhyw un neu ragor o'r disgrifiadau hynny, i'w trin fel gweithwyr gofal cymdeithasol.
- (3) Y disgrifiadau o bersonau yw –
  - (a) person sydd wedi ei ddynodi o dan Bennod 2 o Ran 1 (cofrestru etc. darparwyr gwasanaethau) yn unigolyn cyfrifol mewn cysylltiad â man y mae gwasanaeth rheoleiddiedig yn cael ei ddarparu ynddo, ohono neu mewn perthynas ag ef;

- (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.

## PART 4

### SOCIAL CARE WORKERS

*Meaning of “social care worker” etc.*

#### **79 Meaning of “social care worker” etc.**

- (1) In Parts 3 to 8 of this Act “social care worker” means a person who –
  - (a) engages in relevant social work (referred to in those Parts as a “social worker”);
  - (b) manages a place at or from which a regulated service is provided;
  - (c) in the course of his or her employment with a service provider, provides care and support to any person in Wales in connection with a regulated service provided by that provider;
  - (d) under a contract for services, provides care and support to any person in Wales in connection with a regulated service provided by a service provider.
- (2) The Welsh Ministers may by regulations –
  - (a) except persons of a specified description from the definition of social care worker in subsection (1);
  - (b) provide that persons of any of the descriptions in subsection (3), or categories of person falling within any of those descriptions, are to be treated as social care workers.
- (3) The descriptions of person are –
  - (a) a person designated under Chapter 2 of Part 1 (registration etc. of service providers) as a responsible individual in respect of a place at, from or in relation to which a regulated service is provided;

- (b) person sy'n ymgymryd â gwaith at ddibenion swyddogaethau gwasanaethau cymdeithasol awdurdod lleol (o fewn ystyr Deddf 2014), neu â'r ddarpariaeth o wasanaethau sy'n debyg i wasanaethau y caniateir iddynt gael, neu y mae rhaid iddynt gael, eu darparu gan awdurdodau lleol wrth arfer y swyddogaethau hynny;
  - (c) person sy'n darparu gofal a chymorth a fyddai, oni bai am baragraff 8(2)(a) o Atodlen 1, yn gyfystyr â darparu gwasanaeth cymorth cartref;
  - (d) person sydd wedi ei gofrestru o dan Ran 2 o Fesur Plant a Theuluoedd (Cymru) 2010 (mccc 1) fel—
    - (i) gwarchodwr plant, neu
    - (ii) darparwr gofal dydd i blant;
  - (e) person sy'n rheoli ymgymeriad, neu sydd wedi ei gyflogi mewn ymgymeriad, sy'n cynnal busnes cyflogi (o fewn ystyr "employment business" yn adran 13 o Ddeddf Asiantaethau Cyflogi 1973 (p.35)) sy'n cyflenwi personau i ddarparu gofal a chymorth i unrhyw berson yng Nghymru;
  - (f) person sy'n rheoli ymgymeriad, neu sydd wedi ei gyflogi mewn ymgymeriad, sy'n cynnal asiantaeth gyflogi (o fewn ystyr "employment agency" yn yr adran a grybwyllir ym mharagraff (e)) sy'n darparu gwasanaethau at ddiben cyflenwi personau i ddarparu gofal a chymorth i unrhyw berson yng Nghymru;
  - (g) person sy'n ymgymryd â chwrs a gymeradwyir gan GCC o dan adran 114 (cyrsiau ar gyfer personau sy'n weithwyr gofal cymdeithasol neu sy'n dymuno dod yn weithiwr gofal cymdeithasol);
  - (h) arolygydd sy'n cynnal arolygiadau o wasanaethau rheoleiddiedig ar ran Gweinidogion Cymru o dan Bennod 3 o Ran 1 o'r Ddeddf hon (gwybodaeth ac arolygiadau);
  - (i) arolygydd sy'n cynnal arolygiadau o dan adran 161 o Ddeddf 2014 (arolygiadau mewn cysylltiad â swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol);
  - (j) person a gyflogir mewn cysylltiad â chyflawni swyddogaethau Gweinidogion Cymru o dan adran 80 o Ddeddf Plant 1989 (p.41) (arolygu cartrefi plant etc.);
  - (k) staff Llywodraeth Cymru sy'n arolygu mangreoedd o dan—
    - (i) adran 87 o Ddeddf Plant 1989 (lles plant sydd wedi eu lletya mewn ysgolion annibynnol a cholegau), neu
    - (ii) adran 40 o Fesur Plant a Theuluoedd (Cymru) 2010 (arolygu gwarchod plant a gofal dydd yng Nghymru);
  - (l) person sy'n rheoli staff a grybwyllir ym mharagraff (j) neu (k).
- (4) At ddibenion Rhannau 3 i 8 o'r Ddeddf hon ystyr "gwaith cymdeithasol perthnasol" yw gwaith cymdeithasol sy'n ofynnol mewn cysylltiad ag unrhyw wasanaethau iechyd, gwasanaethau addysg neu wasanaethau cymdeithasol a ddarperir yng Nghymru.
- (5) Gweler adran 2 am ystyr "gwasanaeth rheoleiddiedig" ac adran 3 am ystyr "darparwr gwasanaeth" a "gofal a chymorth".

- (b) a person engaged in work for the purposes of a local authority's social services functions (within the meaning of the 2014 Act), or in the provision of services similar to services which may or must be provided by local authorities in the exercise of those functions;
  - (c) a person providing care and support which would, but for paragraph 8(2)(a) of Schedule 1, constitute the provision of a domiciliary support service;
  - (d) a person registered under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) as –
    - (i) a child minder, or
    - (ii) a provider of day care for children;
  - (e) a person who manages, or is employed in, an undertaking carrying on an employment business (within the meaning of section 13 of the Employment Agencies Act 1973 (c.35)) which supplies persons to provide care and support to any person in Wales;
  - (f) a person who manages, or is employed in, an undertaking carrying on an employment agency (within the meaning of the section mentioned in paragraph (e)) which provides services for the purpose of supplying persons to provide care and support to any person in Wales;
  - (g) a person undertaking a course approved by SCW under section 114 (courses for persons who are or wish to become social care workers);
  - (h) an inspector carrying out inspections of regulated services on behalf of the Welsh Ministers under Chapter 3 of Part 1 of this Act (information and inspections);
  - (i) an inspector carrying out inspections under section 161 of the 2014 Act (inspections in connection with local authority social services functions);
  - (j) a person employed in connection with the discharge of the functions of the Welsh Ministers under section 80 of the Children Act 1989 (c.41) (inspection of children's homes etc.);
  - (k) staff of the Welsh Government who inspect premises under –
    - (i) section 87 of the Children Act 1989 (welfare of children accommodated in independent schools and colleges), or
    - (ii) section 40 of the Children and Families (Wales) Measure 2010 (inspection of child minding and day care in Wales);
  - (l) a person who manages staff mentioned in paragraph (j) or (k).
- (4) For the purposes of Parts 3 to 8 of this Act "relevant social work" means social work which is required in connection with any health, education or social services provided in Wales.
- (5) See section 2 for the meaning of "regulated service" and section 3 for the meaning of "service provider" and "care and support".

*Y gofrestr***80 Y gofrestr**

- (1) Rhaid i GCC gadw cofrestr –
  - (a) o weithwyr cymdeithasol,
  - (b) o weithwyr gofal cymdeithasol o unrhyw ddisgrifiad arall a bennir gan Weinidogion Cymru drwy reoliadau, ac
  - (c) o weithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol (gweler adran 90).
- (2) Rhaid cadw rhan ar wahân o'r gofrestr –
  - (a) ar gyfer gweithwyr cymdeithasol;
  - (b) ar gyfer pob disgrifiad o weithiwr gofal cymdeithasol a bennir mewn rheoliadau a wneir o dan is-adran (1)(b);
  - (c) ar gyfer gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol.
- (3) At ddibenion Rhannau 3 i 8 o'r Ddeddf hon –
  - (a) y rhan a grybwyllir yn is-adran (2)(a) yw'r "rhan gweithwyr cymdeithasol" o'r gofrestr;
  - (b) mae rhan a grybwyllir yn is-adran (2)(b) yn "rhan ychwanegol" o'r gofrestr;
  - (c) y rhan a grybwyllir yn is-adran (2)(c) yw'r "rhan ymwelwyr Ewropeaidd" o'r gofrestr.

**81 Dyletswydd i benodi cofrestrydd**

- (1) Rhaid i GCC benodi cofrestrydd.
- (2) Mae person a benodir yn gofrestrydd yn dal y swydd ar unrhyw delerau ac amodau sy'n briodol ym marn GCC; ond rhaid i GCC ymgynghori â Gweinidogion Cymru cyn penderfynu ar unrhyw delerau ac amodau ynghylch y lefelau tâl, pensiynau, lwfansau a threuliau sy'n daladwy i berson o'r fath neu mewn cysylltiad ag ef.
- (3) Gweler paragraff 13 o Atodlen 2 am ddarpariaeth bellach ynghylch staff GCC.

*Cofrestru yn y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol o'r gofrestr*

**82 Cais i gofrestru**

- (1) Mae cais i gofrestru yn y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol o'r gofrestr i'w wneud i'r cofrestrydd.
- (2) Rhaid i gais o dan is-adran (1) bennu pob rhan o'r gofrestr y gwneir cais i gofrestru ynddi.

*The register*

**80 The register**

- (1) SCW must keep a register of—
  - (a) social workers,
  - (b) social care workers of any other description specified by the Welsh Ministers by regulations, and
  - (c) visiting social workers from relevant European States (see section 90).
- (2) There must be a separate part of the register—
  - (a) for social workers;
  - (b) for each description of social care worker specified in regulations made under subsection (1)(b);
  - (c) for visiting social workers from relevant European States.
- (3) For the purposes of Parts 3 to 8 of this Act—
  - (a) the part mentioned in subsection (2)(a) is the “social worker part” of the register;
  - (b) a part mentioned in subsection (2)(b) is an “added part” of the register;
  - (c) the part mentioned in subsection (2)(c) is the “visiting European part” of the register.

**81 Duty to appoint a registrar**

- (1) SCW must appoint a registrar.
- (2) A person appointed as registrar holds office on such terms and conditions as SCW thinks appropriate; but SCW must consult the Welsh Ministers before determining any terms and conditions about the levels of remuneration, pensions, allowances and expenses payable to, or in respect of, such a person.
- (3) See paragraph 13 of Schedule 2 for further provision about SCW’s staff.

*Registration in the social worker part or an added part of the register*

**82 Application for registration**

- (1) An application for registration in the social worker part or an added part of the register is to be made to the registrar.
- (2) An application under subsection (1) must specify each part of the register in which registration is sought.



**83 Cofrestru**

- (1) Rhaid i'r cofrestrydd ganiatáu cais a wneir o dan adran 82 os yw wedi ei fodloni –
  - (a) bod y cais wedi ei wneud ar y ffurf ac yn y modd a bennir mewn rheolau a wneir gan GCC,
  - (b) bod yr ymgeisydd wedi talu'r ffi (os oes ffi) a bennir mewn rheolau a wneir gan GCC o dan adran 74, ac
  - (c) bod yr ymgeisydd yn bodloni'r gofynion cofrestru.
- (2) Y gofynion cofrestru yw –
  - (a) bod y person wedi ei gymhwysu'n briodol (gweler adran 84),
  - (b) nad oes unrhyw amhariad ar addasrwydd y person i ymarfer ar un neu ragor o'r seiliau yn adran 117(1), ac
  - (c) bod y person yn bwriadu ymarfer gwaith personau sydd wedi eu cofrestru yn y rhan o'r gofrestr y mae'r cais yn ymwneud â hi.
- (3) At ddibenion is-adran (2)(c) caiff GCC drwy reolau bennu –
  - (a) gweithgareddau sydd i'w hystyried fel ymarfer gwaith personau sydd wedi eu cofrestru mewn rhan o'r gofrestr;
  - (b) y meini prawf i'w cymhwysu gan y cofrestrydd ar gyfer dyfarnu a yw person yn bwriadu ymarfer.

*“Wedi ei gymhwysu'n briodol”*

**84 “Wedi ei gymhwysu'n briodol”**

At ddibenion adran 83 mae person wedi ei gymhwysu'n briodol –

- (a) os yw'r ymgeisydd, yn achos cais i gofrestru fel gweithiwr cymdeithasol –
  - (i) wedi cwblhau'n llwyddiannus gwrs a gymeradwywyd gan GCC o dan adran 114 ar gyfer personau sy'n dymuno dod yn weithwyr cymdeithasol,
  - (ii) yn bodloni gofynion adran 85 (cymwysterau a geir y tu allan i Gymru), neu
  - (iii) yn bodloni unrhyw ofynion o ran hyfforddiant y caiff GCC eu gosod drwy reolau;
- (b) os yw'r ymgeisydd, yn achos ymgeisydd sy'n gwneud cais i gofrestru fel gweithiwr gofal cymdeithasol o unrhyw ddisgrifiad arall –
  - (i) wedi cwblhau'n llwyddiannus gwrs a gymeradwywyd gan GCC o dan adran 114 ar gyfer personau sy'n dymuno dod yn weithiwr gofal cymdeithasol o'r disgrifiad hwnnw, neu
  - (ii) sy'n bodloni unrhyw ofynion o ran hyfforddiant y caiff GCC drwy reolau eu gosod mewn perthynas â gweithwyr gofal cymdeithasol o'r disgrifiad hwnnw.

**83 Registration**

- (1) The registrar must grant an application made under section 82 if satisfied that –
  - (a) the application is made in the form and manner specified in rules made by SCW,
  - (b) the applicant has paid the fee (if any) specified in rules made by SCW under section 74, and
  - (c) the applicant meets the registration requirements.
- (2) The registration requirements are that –
  - (a) the person is appropriately qualified (see section 84),
  - (b) the person's fitness to practise is not impaired on one or more of the grounds in section 117(1), and
  - (c) the person intends to practise the work of persons registered in the part of the register to which the application relates.
- (3) For the purposes of subsection (2)(c) SCW may by rules specify –
  - (a) activities that are to be regarded as practising the work of persons registered in a part of the register;
  - (b) the criteria to be applied by the registrar for determining whether a person intends to practise.

*“Appropriately qualified”*

**84 “Appropriately qualified”**

For the purposes of section 83 a person is appropriately qualified if –

- (a) in the case of an application for registration as a social worker, the applicant –
  - (i) has successfully completed a course approved by SCW under section 114 for persons wishing to become social workers,
  - (ii) satisfies the requirements of section 85 (qualifications gained outside of Wales), or
  - (iii) satisfies any requirements as to training which SCW may by rules impose;
- (b) in the case of an applicant for registration as a social care worker of any other description, the applicant –
  - (i) has successfully completed a course approved by SCW under section 114 for persons wishing to become a social care worker of that description, or
  - (ii) satisfies any requirements as to training which SCW may by rules impose in relation to social care workers of that description.

**85 Cymwysterau a geir y tu allan i Gymru**

- (1) Mae ymgeisydd ar gyfer cofrestru yn y rhan gweithwyr cymdeithasol o'r gofrestr yn bodloni gofynion yr adran hon os yw'r ymgeisydd yn berson esempt sydd, yn rhinwedd Rhan 3 o'r Rheoliadau Systemau Cyffredinol, wedi ei ganiatáu i ddilyn proffesiwn gweithiwr cymdeithasol yn y Deyrnas Unedig (ar ôl, yn benodol, gwblhau unrhyw gyfnod addasu yn llwyddiannus, neu basio unrhyw brawf tueddfryd, y caiff fod yn ofynnol i'r ymgeisydd ei gwblhau yn unol â'r Rhan honno o'r Rheoliadau hynny).
- (2) Mae ymgeisydd ar gyfer cofrestru yn y rhan gweithwyr cymdeithasol o'r gofrestr yn bodloni gofynion yr adran hon—
  - (a) os yw'r ymgeisydd wedi gwneud hyfforddiant mewn gwaith cymdeithasol yn rhywle arall ac eithrio Cymru, a
  - (b) os, naill ai—
    - (i) cydnabyddir yr hyfforddiant hwnnw gan GCC fel hyfforddiant o safon sy'n ddigonol ar gyfer cofrestriad o'r fath, neu
    - (ii) na chydabyddir yr hyfforddiant yn y fath fodd, ond bod yr ymgeisydd wedi gwneud unrhyw hyfforddiant ychwanegol sy'n ofynnol gan GCC (pa un a yw hynny yng Nghymru neu yn rhywle arall).

*Adnewyddu cofrestriad yn y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol o'r gofrestr*

**86 Adnewyddu cofrestriad**

- (1) Caiff GCC drwy reolau—
  - (a) darparu mai dim ond am gyfnod a bennir yn y rheolau y mae cofnod yn y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol o'r gofrestr yn cael effaith, a
  - (b) gwneud darpariaeth ar gyfer adnewyddu cofnod o'r fath yn y gofrestr.
- (2) Pan fo rheolau wedi eu gwneud o dan is-adran (1), rhaid i'r cofrestrydd, ar gais y person y mae'r cofnod yn ymwneud ag ef, ganiatáu cais i adnewyddu—
  - (a) os yw'r cais wedi ei wneud ar y ffurf ac yn y modd a bennir gan reolau a wneir gan GCC,
  - (b) os yw'r ymgeisydd wedi talu'r ffi (os oes ffi) a bennir mewn rheolau a wneir gan GCC o dan adran 74, ac
  - (c) os yw'r cofrestrydd wedi ei fodloni bod yr ymgeisydd yn bodloni'r gofynion adnewyddu.
- (3) Y gofynion adnewyddu yw—
  - (a) bod yr ymgeisydd wedi bodloni unrhyw ofynion i gyflawni hyfforddiant pellach a osodir gan reolau a wneir o dan adran 113 (datblygiad proffesiynol parhaus), a
  - (b) bod yr ymgeisydd yn bwriadu ymarfer y gwaith y mae ei gais am adnewyddu yn ymwneud ag ef.
- (4) Caiff rheolau a wneir o dan adran 83(3) (meini prawf ar gyfer dyfarniadau'r cofrestrydd ynghylch bwriad ymgeisydd i ymarfer) gynnwys darpariaeth ynghylch dyfarniad cofrestrydd o dan is-adran (3)(b) o'r adran hon.

**85 Qualifications gained outside Wales**

- (1) An applicant for registration in the social worker part of the register satisfies the requirements of this section if the applicant is an exempt person who by virtue of Part 3 of the General Systems Regulations is permitted to pursue the profession of social worker in the United Kingdom (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that the applicant may be required to undertake pursuant to that Part of those Regulations).
- (2) An applicant for registration in the social worker part of the register satisfies the requirements of this section if –
  - (a) the applicant has, elsewhere than in Wales, undergone training in social work, and
  - (b) either –
    - (i) that training is recognised by SCW as being to a standard sufficient for such registration, or
    - (ii) it is not so recognised, but the applicant has undergone such additional training as SCW may require (whether undergone in Wales or elsewhere).

*Renewal of registration in the social worker part or an added part of the register*

**86 Renewal of registration**

- (1) SCW may by rules –
  - (a) provide that an entry in the social worker part or in an added part of the register has effect only for a period specified in the rules, and
  - (b) make provision for the renewal of such an entry in the register.
- (2) Where rules have been made under subsection (1), the registrar must, on the application of the person to whom the entry relates, grant an application for renewal if –
  - (a) the application is made in the form and manner specified by rules made by SCW,
  - (b) the applicant has paid the fee (if any) specified in rules made by SCW under section 74, and
  - (c) the registrar is satisfied that the applicant meets the renewal requirements.
- (3) The renewal requirements are that –
  - (a) the applicant has met any requirements to undertake further training imposed by rules made under section 113 (continuing professional development), and
  - (b) the applicant intends to practise the work to which his or her application for renewal relates.
- (4) Rules made under section 83(3) (criteria for registrar's determinations about an applicant's intention to practise) may include provision about a registrar's determination under subsection (3)(b) of this section.

**87 Darfodiad cofrestrriad**

- (1) Mae cofrestrriad person yn y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol o'r gofrestr yn darfod ar ddiwedd y cyfnod a bennir gan GCC mewn rheolau o dan adran 86(1)(a) os nad yw'r person wedi adnewyddu ei gofrestrriad yn unol â rheolau a wneir gan GCC o dan adran 86(1)(b).
- (2) Ond nid yw cofrestrriad person yn darfod o dan is-adran (1) os yw is-adran (3) yn gymwys i'r person.
- (3) Mae'r is-adran hon yn gymwys i berson—
  - (a) sy'n ddarostyngedig i unrhyw achosion o dan Ran 6, gan gynnwys ystyriaeth ragarweiniol neu ymchwiliad o dan Bennod 2 o'r Rhan honno, sy'n ymwneud ag addasrwydd y person i ymarfer y gwaith y mae ei gofrestrriad yn ymwneud ag ef ("y gwaith perthnasol");
  - (b) y gwneir penderfyniad mewn cysylltiad ag ef sy'n ymwneud â'r gwaith perthnasol y caniateir i apêl gael ei gwneud yn ei erbyn o dan adran 158 (apelau yn erbyn penderfyniadau panel addasrwydd i ymarfer);
  - (c) y mae gorchymyn cofrestru amodol mewn cysylltiad ag ef sy'n ymwneud â'r gwaith perthnasol yn cael effaith o dan adran 138(7), 152(8)(c), 153(6) neu (7), 154(8)(c) neu 155(10)(c);
  - (d) y mae gorchymyn atal dros dro mewn cysylltiad ag ef sy'n ymwneud â'r gwaith perthnasol yn cael effaith o dan adran 138(8), 152(8)(d), 153(9)(c), 154(6), (7) neu (10) neu 155(9);
  - (e) y mae gorchymyn interim mewn cysylltiad ag ef sy'n ymwneud â'r gwaith perthnasol yn cael effaith o dan adran 144 neu 147.
- (4) Mae is-adran (2) yn peidio â bod yn gymwys i berson a ddisgrifir yn is-adran (3)(b)—
  - (a) ar ddiwedd y cyfnod a bennir yn adran 158(3) ar gyfer gwneud apêl, neu
  - (b) pan fo apêl wedi ei gwneud cyn diwedd y cyfnod hwnnw, pan ddyfernir ar yr apêl.
- (5) Mae person y byddai ei gofrestrriad yn y rhan gweithwyr cymdeithasol neu mewn rhan ychwanegol o'r gofrestr wedi darfod o dan is-adran (1) oni bai am is-adran (2) i'w drin fel pe na bai wedi ei gofrestru yn y rhan berthnasol o'r gofrestr at bob diben ac eithrio'r rhai a grybwyllir yn is-adran (6), er gwaethaf bod enw'r person yn parhau i ymddangos ynddi.
- (6) Mae'r person i'w drin fel pe bai wedi ei gofrestru at ddibenion unrhyw achosion o dan Ran 6 (gan gynnwys ystyriaeth ragarweiniol neu ymchwiliad o dan Bennod 2) sy'n ymwneud ag addasrwydd y person i ymarfer y gwaith perthnasol.

*Ymdrin â cheisiadau ar gyfer cofrestru neu adnewyddu*

**88 Rheolau ynghylch ceisiadau ar gyfer cofrestru neu adnewyddu**

- (1) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch sut y mae'r cofrestrydd i ddyfarnu o dan adran 83 a oes amhariad ar addasrwydd person i ymarfer ar unrhyw un neu ragor o'r seiliau yn adran 117(1).

**87 Lapse of registration**

- (1) A person's registration in the social worker part or an added part of the register lapses at the end of the period specified by SCW in rules under section 86(1)(a) if the person has not renewed his or her registration in accordance with rules made by SCW under section 86(1)(b).
- (2) But a person's registration does not lapse under subsection (1) if subsection (3) applies to the person.
- (3) This subsection applies to a person—
  - (a) who is the subject of any proceedings under Part 6, including preliminary consideration or investigation under Chapter 2 of that Part, which relate to the person's fitness to practise the work to which his or her registration relates ("the relevant work");
  - (b) in respect of whom a decision has been made relating to the relevant work which may be appealed against under section 158 (appeals against decisions of fitness to practise panel);
  - (c) in respect of whom a conditional registration order relating to the relevant work has effect under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c);
  - (d) in respect of whom a suspension order relating to the relevant work has effect under section 138(8), 152(8)(d), 153(9)(c), 154(6), (7) or (10) or 155(9);
  - (e) in respect of whom an interim order relating to the relevant work has effect under section 144 or 147.
- (4) Subsection (2) ceases to apply to a person described in subsection (3)(b)—
  - (a) at the end of the period specified in section 158(3) during which an appeal may be made, or
  - (b) where an appeal is made before the end of that period, at the determination of the appeal.
- (5) A person whose registration in the social worker part or an added part of the register would have lapsed under subsection (1) but for subsection (2) is to be treated as not being registered in the relevant part of the register for all purposes other than those mentioned in subsection (6), despite the fact that the person's name continues to appear in it.
- (6) The person is to be treated as registered for the purposes of any proceedings under Part 6 (including preliminary consideration or investigation under Chapter 2) which relate to the person's fitness to practise the relevant work.

*Dealing with applications for registration or renewal***88 Rules about applications for registration or renewal**

- (1) SCW must by rules make provision about how the registrar is to determine under section 83 whether a person's fitness to practise is impaired on any of the grounds in section 117(1).

- (2) Caiff rheolau o dan is-adran (1), yn benodol—
- (a) ei gwneud yn ofynnol i berson sy'n gwneud cais i gofrestru ddarparu gwybodaeth at ddiben dyfarniad y cofrestrydd;
  - (b) darparu bod yr wybodaeth i'w darparu i'r cofrestrydd drwy ddatganiad ysgrifenedig gan y person sy'n gwneud y cais.
- (3) Rhaid i GCC hefyd drwy reolau wneud darpariaeth ynghylch y weithdrefn sydd i'w dilyn gan y cofrestrydd wrth ymdrin—
- (a) â cheisiadau ar gyfer cofrestru mewn rhan o'r gofrestr, a
  - (b) â cheisiadau ar gyfer adnewyddu, pan fo rheolau o dan adran 86 yn darparu ar gyfer adnewyddu cofnod yn y gofrestr.
- (4) Caiff rheolau o dan is-adran (3), yn benodol, wneud darpariaeth ynghylch—
- (a) y cyfnod y mae rhaid cydnabod cais i gofrestru neu i adnewyddu cofrestriad ynddo;
  - (b) yr wybodaeth y mae rhaid ei darparu gan y cofrestrydd mewn ymateb i gais;
  - (c) y cyfnod y rhoddir hysbysiad o dan adran 89 ynddo;
  - (d) yr wybodaeth y caniateir i'r cofrestrydd ei gwneud yn ofynnol ei fod yn ei chael i ategu cais a'r weithdrefn sydd i'w dilyn gan y cofrestrydd wrth ofyn am yr wybodaeth honno;
  - (e) yr amgylchiadau pan gaiff y cofrestrydd ddyfarnu nad yw cais wedi bod yn llwyddiannus ar y sail bod y person a wnaeth y cais wedi methu â darparu'r wybodaeth a oedd yn ofynnol gan y cofrestrydd o fewn cyfnod a bennir gan y cofrestrydd;
  - (f) yr amgylchiadau pan gaiff ffi ar gyfer cofrestru ac, os yw'n berthnasol, ar gyfer adnewyddu, ei chodi a'r amgylchiadau pan ganiateir i ffi o'r fath gael ei lleihau neu ei hepgor.

## **89 Hysbysiad o benderfyniadau mewn cysylltiad â chofrestru neu adnewyddu**

- (1) Mae is-adran (2) yn gymwys pan fo'r cofrestrydd yn penderfynu—
- (a) caniatáu cais i gofrestru, neu
  - (b) caniatáu cais i adnewyddu cofrestriad.
- (2) Rhaid i'r cofrestrydd roi hysbysiad o'r penderfyniad i'r person y mae'r cais yn ymwneud ag ef.
- (3) Mae is-adran (4) yn gymwys pan fo'r cofrestrydd yn penderfynu—
- (a) gwrthod cais i gofrestru, neu
  - (b) gwrthod cais i adnewyddu cofrestriad person.
- (4) Rhaid i'r cofrestrydd roi i'r person y mae'r penderfyniad yn ymwneud ag ef hysbysiad—
- (a) o'r penderfyniad,
  - (b) o'r rhesymau dros y penderfyniad, ac
  - (c) o'r hawl i apelio o dan adran 101.

- (2) Rules under subsection (1) may, in particular—
  - (a) require a person making an application for registration to provide information for the purpose of the registrar's determination;
  - (b) provide that the information is to be provided to the registrar by means of a written declaration by the person making the application.
- (3) SCW must also by rules make provision about the procedure to be followed by the registrar in dealing with—
  - (a) applications for registration in a part of the register, and
  - (b) where rules under section 86 provide for the renewal of an entry in the register, applications for renewal.
- (4) Rules under subsection (3) may, in particular, make provision about—
  - (a) the period within which an application for registration or renewal of registration must be acknowledged;
  - (b) the information that must be provided by the registrar in response to an application;
  - (c) the period within which a notice under section 89 will be given;
  - (d) the information in support of an application that may be required by the registrar and the procedure to be followed by the registrar in requesting that information;
  - (e) circumstances in which the registrar may determine that an application has not been successful on the grounds that the person who made the application has failed to provide information required by the registrar within a period specified by the registrar;
  - (f) circumstances in which a fee for registration and, if relevant, renewal will be charged and circumstances in which such a fee may be reduced or waived.

## **89 Notice of decisions in respect of registration or renewal**

- (1) Subsection (2) applies where the registrar decides to—
  - (a) grant an application for registration, or
  - (b) grant an application for renewal of registration.
- (2) The registrar must give the person to whom the application relates notice of the decision.
- (3) Subsection (4) applies where the registrar decides to—
  - (a) refuse an application for registration, or
  - (b) refuse an application for renewal of a person's registration.
- (4) The registrar must give the person to whom the decision relates notice—
  - (a) of the decision,
  - (b) of the reasons for the decision, and
  - (c) of the right of appeal under section 101.



*Gweithwyr cymdeithasol sydd ar ymweliad***90 Gweithwyr cymdeithasol sydd ar ymweliad o Wladwriaethau Ewropeaidd perthnasol**

- (1) Mae'r adran hon yn gymwys i berson esempt ("V") sydd wedi ei sefydlu'n gyfreithlon fel gweithiwr cymdeithasol mewn Gwladwriaeth Ewropeaidd berthnasol ac eithrio'r Deyrnas Unedig.
- (2) Mae is-adran (3) yn gymwys os oes gan V fudd rheoliad 8 o'r Rheoliadau Systemau Cyffredinol mewn cysylltiad â'r ddarpariaeth o wasanaethau fel gweithiwr cymdeithasol gan V yn y Deyrnas Unedig ar sail dros dro ac achlysurol (os yw V wedi cydymffurfio ag unrhyw ofynion a osodir o dan Ran 2 o'r Rheoliadau hynny mewn cysylltiad â'r ddarpariaeth o wasanaethau fel gweithiwr cymdeithasol gan V).
- (3) Mae hawlogaeth gan V i gael ei gofrestru yn y rhan ymwelwyr Ewropeaidd o'r gofrestr, a rhaid i'r cofrestrydd roi effaith i'r hawlogaeth.
- (4) Os oes gan V hawlogaeth o dan is-adran (3) i gael ei gofrestru yn y rhan ymwelwyr Ewropeaidd o'r gofrestr ond nad yw wedi ei gofrestru yn y rhan honno, mae V i'w drin fel pe bai wedi ei gofrestru yn y rhan honno.
- (5) Mae hawlogaeth V o dan is-adran (3) yn dod i ben os yw V yn peidio, pa un ai o ganlyniad i weithredu rheoliad 17 o'r Rheoliadau Systemau Cyffredinol neu fel arall, â chael budd rheoliad 8 o'r Rheoliadau hynny mewn cysylltiad â'r ddarpariaeth o wasanaethau fel gweithiwr cymdeithasol gan V yn y Deyrnas Unedig ar sail dros dro ac achlysurol.
- (6) Os yw V wedi ei gofrestru yn y rhan ymwelwyr Ewropeaidd o'r gofrestr, caiff y cofrestrydd dynnu V oddi ar y rhan honno os daw hawlogaeth V o dan is-adran (3) i ben o ganlyniad i weithredu is-adran (5).
- (7) Nid yw is-adrannau (1) i (6) yn atal adrannau 92 i 94 o'r Rhan hon neu Ran 6 (addasrwydd i ymarfer) rhag bod yn gymwys i bersonau sydd wedi eu cofrestru yn y rhan ymwelwyr Ewropeaidd o'r gofrestr.
- (8) At ddibenion Rhannau 3 i 8 o'r Ddeddf hon—  

mae i "gwladolyn", mewn perthynas â Gwladwriaeth Ewropeaidd berthnasol, yr un ystyr â "national" yng Nghytuniadau'r UE, ond nid yw'n cynnwys person nad yw, yn rhinwedd Erthygl 2 o Brotocol Rhif 3 (Ynysoedd y Sianel ac Ynys Manaw) i'r Cytuniad Ymaelodi, i gael budd darpariaethau'r UE sy'n ymwneud â rhydd symudiad personau a gwasanaethau;

ystyr "Gwladwriaeth Ewropeaidd berthnasol" ("*relevant European State*") yw Gwladwriaeth AEE neu'r Swistir;

*Visiting social workers***90 Visiting social workers from relevant European States**

- (1) This section applies to an exempt person (“V”) who is lawfully established as a social worker in a relevant European State other than the United Kingdom.
- (2) Subsection (3) applies if V has the benefit of regulation 8 of the General Systems Regulations in connection with the provision by V of services as a social worker in the United Kingdom on a temporary and occasional basis (V having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by V of services as a social worker).
- (3) V is entitled to be registered in the visiting European part of the register, and the registrar must give effect to the entitlement.
- (4) If V is entitled under subsection (3) to be registered in the visiting European part of the register but is not registered in that part, V is to be treated as having been registered in that part.
- (5) V’s entitlement under subsection (3) ends if V ceases, whether as a result of the operation of regulation 17 of the General Systems Regulations or otherwise, to have the benefit of regulation 8 of those Regulations in connection with the provision by V of services as a social worker in the United Kingdom on a temporary and occasional basis.
- (6) If V is registered in the visiting European part of the register, the registrar may remove V from that part if V’s entitlement under subsection (3) ends by reason of the operation of subsection (5).
- (7) Subsections (1) to (6) do not prevent sections 92 to 94 of this Part or Part 6 (fitness to practise) from applying to persons registered in the visiting European part of the register.
- (8) For the purposes of Parts 3 to 8 of this Act –
  - “exempt person” (“*person esempt*”) means –
    - (a) a national of a relevant European State other than the United Kingdom,
    - (b) a national of the United Kingdom who is seeking to engage in relevant social work in Wales by virtue of an enforceable EU right, or
    - (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable EU right, entitled to be treated, as regards the right to engage in relevant social work in Wales, no less favourably than a national of a relevant European State;
  - “the General Systems Regulations” (“*y Rheoliadau Systemau Cyffredinol*”) means the European Communities (Recognition of Professional Qualifications) Regulations 2007 (S.I. 2007/2781);

ystyr “person esempt” (“*exempt person*”) yw –

- (a) gwladolyn o Wladwriaeth Ewropeaidd berthnasol ac eithrio'r Deyrnas Unedig,
- (b) gwladolyn o'r Deyrnas Unedig sy'n ceisio ymgymryd â gwaith cymdeithasol perthnasol yng Nghymru yn rhinwedd hawl UE orfodadwy, neu
- (c) person nad yw'n wladolyn o Wladwriaeth Ewropeaidd berthnasol ond sydd â hawlogaeth, yn rhinwedd hawl UE orfodadwy, i beidio â chael ei drin yn llai ffafriol na gwladolyn o Wladwriaeth Ewropeaidd berthnasol o ran yr hawl i ymgymryd â gwaith cymdeithasol perthnasol yng Nghymru;

ystyr “y Rheoliadau Systemau Cyffredinol” (“*the General Systems Regulations*”) yw Rheoliadau'r Cymunedau Ewropeaidd (Cydnabod Cymwysterau Proffesiynol) 2007 (O.S. 2007/2781).

*Gwybodaeth sydd i'w chynnwys ar y gofrestr*

## 91 Cynnwys y gofrestr

- (1) Rhaid i gofnod yn y gofrestr mewn cysylltiad â pherson ddangos yr wybodaeth a ganlyn—
  - (a) y dyddiad pan gofnodwyd y person ar y gofrestr;
  - (b) cymwysterau'r person i ymarfer gwaith o'r math y mae ei gofrestriad yn ymwneud ag ef;
  - (c) unrhyw gymwysterau eraill, gwybodaeth arall neu brofiad arall a ragnodir sy'n berthnasol i gofrestriad y person;
  - (d) unrhyw wybodaeth sy'n ymwneud ag addasrwydd y person i ymarfer a ragnodir.
- (2) Caiff GCC drwy reolau ei gwneud yn ofynnol i'r cofrestrydd, neu ei awdurdodi i—
  - (a) cynnwys mewn cofnod yn y gofrestr wybodaeth nad yw'n ofynnol yn rhinwedd is-adran (1);
  - (b) dileu o gofnod yn y gofrestr wybodaeth o fath a bennir yn y rheolau.
- (3) Ni chaiff rheolau o dan is-adran (2) ei gwneud yn ofynnol i gofrestrydd neu awdurdodi'r cofrestrydd i gofnodi gwybodaeth sy'n ymwneud ag iechyd corfforol neu iechyd meddwl person.

*Dileu cofnodion o'r gofrestr*

## 92 Dileu drwy gytundeb

- (1) Rhaid i GCC drwy reolau wneud darpariaeth ar gyfer dileu cofnod o ran o'r gofrestr ar gais y person y mae'r cais yn ymwneud ag ef.
- (2) Rhaid i reolau o dan yr adran hon gynnwys darpariaeth ynghylch—
  - (a) yr amgylchiadau pan gaiff person wneud cais i gofnod gael ei ddileu o ran o'r gofrestr;
  - (b) ym mha fodd y caniateir i gais gael ei wneud;

“national” (“*gwladolyn*”), in relation to a relevant European State, means the same as in the EU Treaties, but does not include a person who by virtue of Article 2 of Protocol No 3 (Channel Islands and the Isle of Man) to the Treaty of Accession is not to benefit from EU provisions relating to the free movement of persons and services;

“relevant European State” (“*Gwladwriaeth Ewropeaidd berthnasol*”) means an EEA State or Switzerland.

*Information to be contained on the register*

**91 Content of the register**

- (1) An entry in the register in respect of a person must show the following information—
  - (a) the date on which the person was entered onto the register;
  - (b) the person’s qualifications to practise work of the kind to which his or her registration relates;
  - (c) such other qualifications, knowledge or experience relevant to the person’s registration as may be prescribed;
  - (d) such information relating to the person’s fitness to practise as may be prescribed.
- (2) SCW may by rules require or authorise the registrar—
  - (a) to include in an entry in the register information not required by virtue of subsection (1);
  - (b) to remove from an entry in the register information of a kind specified in the rules.
- (3) Rules under subsection (2) may not require or authorise the registrar to record information relating to a person’s physical or mental health.

*Removal of entries from the register*

**92 Removal by agreement**

- (1) SCW must by rules make provision for the removal of an entry from a part of the register on the application of the person to whom the application relates.
- (2) Rules under this section must include provision about—
  - (a) the circumstances in which a person may make an application for an entry to be removed from a part of the register;
  - (b) the manner in which an application may be made;

- (c) y meini prawf y caniateir i benderfyniad i ganiatáu neu i wrthod cais gael ei wneud drwy gyfeirio atynt;
  - (d) y weithdrefn ar gyfer rhoi hysbysiad o benderfyniad mewn cysylltiad â chais.
- (3) Caiff y rheolau awdurdodi GCC neu ei gwneud yn ofynnol i GCC gyfeirio cais o dan yr adran hon at banel addasrwydd i ymarfer er mwyn dyfarnu arno.

**93 Marwolaeth person cofrestredig**

- (1) Pan fo person sydd wedi ei gofrestru mewn rhan o'r gofrestr wedi marw, rhaid i'r cofrestrydd o fewn y cyfnod penodedig ddileu'r cofnod sy'n ymwneud â'r person hwnnw o'r gofrestr.
- (2) Yn is-adran (1) ystyr "penodedig" yw wedi ei bennu drwy reolau a wneir gan GCC.

**94 Cofnodion sy'n seiliedig ar wybodaeth anwir neu gamarweiniol**

- (1) Os yw'r cofrestrydd wedi ei fodloni bod cofnod mewn rhan o'r gofrestr, neu fod anodiad i gofnod, wedi ei gynnwys ar y gofrestr ar sail gwybodaeth anwir neu gamarweiniol, caiff y cofrestrydd ddileu'r cofnod neu'r anodiad o'r gofrestr.
- (2) Mae is-adran (3) yn gymwys pan fo'r cofrestrydd yn meddwl—
  - (a) y gall cofnod, neu anodiad i gofnod, yn y gofrestr fod wedi ei gynnwys ar y gofrestr ar sail gwybodaeth anwir neu gamarweiniol,
  - (b) y gall fod amhariad ar addasrwydd y person cofrestredig i ymarfer, ac
  - (c) y gall fod angen gorchymyn interim er mwyn amddiffyn y cyhoedd.
- (3) Caiff y cofrestrydd atgyfeirio'r mater i banel gorchmynion interim.
- (4) Pan fo'r cofrestrydd yn penderfynu dileu cofnod mewn cysylltiad â pherson o'r gofrestr o dan yr adran hon, rhaid i'r cofrestrydd roi hysbysiad i'r person—
  - (a) o'r penderfyniad,
  - (b) o'r rhesymau dros y penderfyniad, ac
  - (c) o'r hawl i apelio a roddir gan adran 101.

*Adfer cofnod i'r gofrestr*

**95 Dyletswydd i adfer cofnod ar gofrestr**

Os yw'r cofrestrydd wedi ei fodloni bod cofnod, neu fod anodiad i gofnod, wedi ei ddileu o'r gofrestr mewn camgymeriad, rhaid i'r cofrestrydd adfer y cofnod neu'r anodiad i'r gofrestr.

**96 Pŵer i adfer cofnod ar gofrestr**

- (1) Mae'r adran hon yn gymwys pan fo cofnod wedi ei ddileu o'r gofrestr o dan—
  - (a) adran 92 (dileu drwy gytundeb);
  - (b) adran 94 (cofnodion sy'n seiliedig ar wybodaeth anwir neu gamarweiniol).
- (2) Caiff y cofrestrydd, ar gais y person yr oedd y cofnod yn ymwneud ag ef, adfer y cofnod i'r gofrestr.

- (c) the criteria by reference to which a decision to grant or refuse an application may be made;
  - (d) the procedure for giving notice of a decision in respect of an application.
- (3) The rules may authorise or require SCW to refer an application under this section to a fitness to practise panel for determination.

### **93 Death of a registered person**

- (1) Where a person registered in a part of the register has died, the registrar must within the specified period remove the entry relating to that person from the register.
- (2) In subsection (1) “specified” means specified by rules made by SCW.

### **94 Entries based on false or misleading information**

- (1) If the registrar is satisfied that an entry in a part of the register, or an annotation to an entry, has been included on the register on the basis of false or misleading information, the registrar may remove the entry or annotation from the register.
- (2) Subsection (3) applies where the registrar thinks –
- (a) that an entry, or an annotation to an entry, in the register may have been included on the register on the basis of false or misleading information,
  - (b) the registered person’s fitness to practise may be impaired, and
  - (c) an interim order may be necessary for the protection of the public.
- (3) The registrar may refer the matter to an interim orders panel.
- (4) Where the registrar decides to remove an entry in respect of a person from the register under this section the registrar must give notice to the person of –
- (a) the decision,
  - (b) the reasons for the decision, and
  - (c) the right of appeal conferred by section 101.

#### *Restoring an entry to the register*

### **95 Duty to restore a register entry**

If the registrar is satisfied that an entry, or an annotation to an entry, has been removed from the register in error, the registrar must restore that entry or annotation to the register.

### **96 Power to restore a register entry**

- (1) This section applies where an entry is removed from the register under –
- (a) section 92 (removal by agreement);
  - (b) section 94 (entries based on false or misleading information).
- (2) The registrar may, on the application of the person to whom the entry related, restore the entry to the register.

- (3) Ni chaiff y cofrestrydd ganiatáu cais i adfer o dan yr adran hon ond os yw wedi ei fodloni bod yr ymgeisydd yn bodloni'r gofynion cofrestru a bennir yn adran 83(2).
- (4) Rhaid i'r cofrestrydd roi hysbysiad i'r ymgeisydd o ran a yw ei gais wedi ei ganiatáu.
- (5) Os nad yw'r cais i adfer wedi ei ganiatáu rhaid i'r cofrestrydd hefyd roi i'r ymgeisydd hysbysiad –
  - (a) o'r rhesymau dros y penderfyniad, a
  - (b) o unrhyw hawl i apelio mewn cysylltiad â'r penderfyniad.

**97 Adfer yn dilyn achos addasrwydd i ymarfer**

- (1) Mae'r adran hon yn gymwys pan fo panel addasrwydd i ymarfer wedi gwneud gorchymyn dileu o dan –
  - (a) adran 138(9) (gwaredu yn dilyn canfyddiad o amhariad);
  - (b) adran 152(8)(e) (penderfyniadau yn dilyn adolygiad o ymgymeriadau);
  - (c) adran 153(9)(d) (penderfyniadau yn sgil adolygiad o orchmynion cofrestru amodol);
  - (d) adran 154(8)(d) (penderfyniadau yn sgil adolygiad o orchmynion atal dros dro).
- (2) Yn ddarostyngedig i is-adran (3), caiff y person y mae'r gorchymyn yn ymwneud ag ef wneud cais i'r cofrestrydd i'r cofnod mewn cysylltiad â'r person gael ei adfer i'r gofrestr (ond gweler adran 98(4) am ddarpariaeth ynghylch yr amgylchiadau pan gaiff panel apelau cofrestru atal person rhag gwneud cais o'r fath).
- (3) Ni chaiff y person y mae'r gorchymyn yn ymwneud ag ef –
  - (a) gwneud cais i adfer cofnod cyn diwedd y cyfnod o 5 mlynedd sy'n dechrau â'r dyddiad y gwnaed y gorchymyn, neu
  - (b) gwneud mwy nag un cais i adfer cofnod i'r gofrestr o fewn cyfnod o 12 mis.
- (4) Rhaid i'r cofrestrydd atgyfeirio cais a wneir o dan is-adran (2) i banel apelau cofrestru er mwyn dyfarnu arno (gweler adran 98).
- (5) Pan fo panel apelau cofrestru wedi rhoi cyfarwyddyd o dan adran 98(4) (ataliad dros dro o'r hawl i wneud cais i adfer) –
  - (a) caiff y person y rhoddir y cyfarwyddyd mewn cysylltiad ag ef wneud cais i'r cofrestrydd i'r cyfarwyddyd gael ei adolygu, a
  - (b) rhaid i'r cofrestrydd atgyfeirio'r cais i banel apelau cofrestru er mwyn dyfarnu arno.
- (6) Ni chaiff person wneud cais o dan is-adran (5)(a) –
  - (a) cyn diwedd y cyfnod o 3 blynedd sy'n dechrau â'r dyddiad y rhoddir y cyfarwyddyd, neu
  - (b) o fewn y cyfnod o 3 blynedd sy'n dechrau â dyddiad cais blaenorol am adolygiad.

- (3) The registrar may grant an application for restoration under this section only if satisfied that the applicant meets the registration requirements specified in section 83(2).
- (4) The registrar must give notice to the applicant as to whether his or her application has been granted.
- (5) If the application for restoration is not granted the registrar must also give the applicant notice of –
  - (a) the reasons for the decision, and
  - (b) any right of appeal in connection with the decision.

**97 Restoration following fitness to practise proceedings**

- (1) This section applies where a fitness to practise panel has made a removal order under –
  - (a) section 138(9) (disposal following a finding of impairment);
  - (b) section 152(8)(e) (decisions following review of undertakings);
  - (c) section 153(9)(d) (decisions on review of conditional registration orders);
  - (d) section 154(8)(d) (decisions on review of suspensions orders).
- (2) Subject to subsection (3), the person to whom the order relates may make an application to the registrar for the entry in respect of the person to be restored to the register (but see section 98(4) for provision about circumstances in which a registration appeals panel may prevent a person making such an application).
- (3) The person to whom the order relates may not –
  - (a) make an application for restoration before the expiry of the period of 5 years beginning with the date on which the order was made, or
  - (b) make more than one application for restoration to the register within a period of 12 months.
- (4) The registrar must refer an application made under subsection (2) to a registration appeals panel for determination (see section 98).
- (5) Where a registration appeals panel has given a direction under section 98(4) (suspension of the right to apply for restoration) –
  - (a) the person in respect of whom the direction is given may make an application to the registrar for a review of the direction, and
  - (b) the registrar must refer the application to a registration appeals panel for determination.
- (6) A person may not make an application under subsection (5)(a) –
  - (a) before the expiry of the period of 3 years beginning with the date on which the direction is given, or
  - (b) within the period of 3 years beginning with the date of a previous application for review.



**98 Achosion adfer**

- (1) Pan fo'r cofrestrydd wedi atgyfeirio cais i adfer cofnod person ("P") i ran o'r gofrestr i banel apelau cofrestru o dan adran 97(4), rhaid i'r panel –
  - (a) dyfarnu bod y cofnod mewn cysylltiad â P i gael ei adfer i'r rhan berthnasol o'r gofrestr, neu
  - (b) dyfarnu na chaniateir i'r cofnod mewn cysylltiad â P gael ei adfer i'r rhan honno o'r gofrestr.
- (2) Rhaid i'r cofrestrydd roi hysbysiad i P o ddyfarniad y panel.
- (3) Os yw'r panel yn gwneud dyfarniad o dan is-adran (1)(b) rhaid i'r cofrestrydd hefyd roi hysbysiad i P –
  - (a) o'i resymau dros wneud y dyfarniad, a
  - (b) o unrhyw hawl i apelio mewn cysylltiad â'r dyfarniad.
- (4) Os yw –
  - (a) P wedi gwneud dau neu ragor o geisiadau o dan adran 97(2) i adfer i'r un rhan o'r gofrestr, a
  - (b) panel apelau cofrestru yn gwrthod, ar yr ail gais neu unrhyw gais dilynol, adfer i'r rhan honno o'r gofrestr o dan is-adran (1)(b),
 caiff y panel gyfarwyddo na chaiff P wneud ceisiadau pellach o dan adran 97(2) i adfer i'r rhan honno o'r gofrestr.
- (5) Os yw'r panel apelau cofrestru yn rhoi cyfarwyddyd o dan is-adran (4), rhaid i'r cofrestrydd roi hysbysiad i P –
  - (a) o'r cyfarwyddyd hwnnw, a
  - (b) o hawl P i apelio o dan adran 104.
- (6) Os yw panel apelau cofrestru yn gwneud dyfarniad o dan is-adran (1)(a) rhaid i'r panel gyfarwyddo'r cofrestrydd i adfer cofnod P i'r gofrestr.

**99 Adolygu ataliad dros dro o'r hawl i wneud cais i adfer**

- (1) Mae is-adran (2) yn gymwys pan fo –
  - (a) panel apelau cofrestru wedi rhoi cyfarwyddyd o dan adran 98(4) mewn cysylltiad â P (ataliad dros dro o'r hawl i wneud cais i adfer), a
  - (b) atgyfeiriad i adolygu'r cyfarwyddyd wedi ei wneud gan y cofrestrydd o dan adran 97(5)(b).
- (2) Rhaid i banel apelau cofrestru adolygu'r cyfarwyddyd, a chaiff ei gadarnhau neu ei ddirymu.
- (3) Rhaid i'r cofrestrydd roi hysbysiad i P o benderfyniad y panel yn sgil adolygiad.
- (4) Pan fo'r panel yn cadarnhau'r cyfarwyddyd, rhaid i'r cofrestrydd hefyd roi hysbysiad i P –
  - (a) o resymau'r panel dros gadarnhau'r cyfarwyddyd, a
  - (b) o'r hawl i apelio o dan adran 104.

**98 Restoration proceedings**

- (1) Where the registrar has referred an application for restoration of a person's ("P") entry in a part of the register to a registration appeals panel under section 97(4), the panel must –
  - (a) determine that the entry in respect of P is to be restored to the relevant part of the register, or
  - (b) determine that the entry in respect of P must not be restored to that part of the register.
- (2) The registrar must give P notice of the panel's determination.
- (3) If the panel makes a determination under subsection (1)(b) the registrar must also give notice to P of –
  - (a) its reasons for making the determination, and
  - (b) any right of appeal in connection with the determination.
- (4) If –
  - (a) P has made two or more applications under section 97(2) for restoration to the same part of the register, and
  - (b) a registration appeals panel, on the second or any subsequent application, refuses restoration to that part of the register under subsection (1)(b),the panel may direct that P may not make further applications under section 97(2) for restoration to that part of the register.
- (5) If the registration appeals panel gives a direction under subsection (4), the registrar must give notice to P of –
  - (a) that direction, and
  - (b) P's right to appeal under section 104.
- (6) If a registration appeals panel makes a determination under subsection (1)(a) the panel must direct the registrar to restore P's entry to the register.

**99 Review of suspension of right to apply for restoration**

- (1) Subsection (2) applies where –
  - (a) a registration appeals panel has given a direction under section 98(4) in respect of P (suspension of the right to apply for restoration), and
  - (b) a referral for the review of the direction has been made by the registrar under section 97(5)(b).
- (2) A registration appeals panel must review the direction, and may confirm or revoke it.
- (3) The registrar must give P notice of the panel's decision on review.
- (4) Where the panel confirms the direction, the registrar must also give P notice of –
  - (a) the panel's reasons for confirming the direction, and
  - (b) the right of appeal under section 104.

**100 Rheolau ynghylch ceisiadau o dan adran 96 ac 97**

- (1) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch y weithdrefn mewn cysylltiad â chais –
- (a) i adfer o dan adran 96 neu 97;
  - (b) i adolygu cyfarwyddyd a roddir o dan adran 98(4) (ataliad dros dro o hawl i wneud cais i adfer).
- (2) Caiff y rheolau, yn benodol, wneud darpariaeth ynghylch –
- (a) ar ba ffurf ac ym mha fodd y caniateir i gais gael ei wneud;
  - (b) yr wybodaeth sydd i'w darparu i ategu cais;
  - (c) y cyfnod y caniateir i gais gael ei wneud ynddo;
  - (d) y cyfnod y mae rhaid darparu ynddo unrhyw hysbysiad y mae'n ofynnol i'r cofrestrydd ei roi;
  - (e) yr amgylchiadau pan ganiateir i gais i adfer o dan adran 96 gael ei atgyfeirio i banel apelau cofrestru er mwyn dyfarnu arno;
  - (f) y meini prawf y mae panel apelau cofrestru i gyfeirio atynt i ddyfarnu pa un a yw cofnod i gael ei adfer ai peidio neu a yw cyfarwyddyd i gael ei gadarnhau neu ei ddirymu;
  - (g) yr amgylchiadau pan godir ffi ar gyfer gwneud cais i adfer cofnod i'r gofrestr a'r amgylchiadau pan ganiateir i ffi o'r fath gael ei lleihau neu ei hepgor.

*Apelau i banel apelau cofrestru***101 Apelau yn erbyn penderfyniadau'r cofrestrydd**

- (1) Caiff person wneud apêl i banel apelau cofrestru yn erbyn penderfyniad gan y cofrestrydd –
- (a) o dan adran 83 i beidio â chaniatáu cais y person i gofrestru;
  - (b) o dan adran 86 i beidio â chaniatáu cais y person i adnewyddu ei gofrestriad;
  - (c) i ddileu cofnod mewn cysylltiad â'r person o'r gofrestr o dan adran 94;
  - (d) o dan adran 96 i beidio â chaniatáu cais y person i adfer ei gofnod i'r gofrestr.
- (2) Ond ni chaniateir i berson apelio yn erbyn penderfyniad a grybwyllir yn is-adran (1)(a), (b) neu (d) os yr unig reswm dros wneud y penderfyniad hwnnw oedd i'r person fethu –
- (a) â thalu unrhyw ffi sy'n ofynnol gan GCC mewn cysylltiad â'r cais,
  - (b) â gwneud y cais ar y ffurf ac yn y modd sy'n ofynnol gan GCC, neu
  - (c) â darparu dogfennau neu wybodaeth i ategu'r cais sy'n ofynnol gan y cofrestrydd.

**102 Apelau i'r panel apelau cofrestru: y weithdrefn**

- (1) Rhaid i apêl o dan adran 101 gael ei gwneud drwy roi hysbysiad apelio i'r cofrestrydd.

**100 Rules about applications under section 96 and 97**

- (1) SCW must by rules make provision about the procedure in connection with an application for—
  - (a) restoration under section 96 or 97;
  - (b) review of a direction given under section 98(4) (suspension of a right to apply for restoration).
- (2) The rules may, in particular, make provision about—
  - (a) the form and manner in which an application may be made;
  - (b) the information to be provided in support of an application;
  - (c) the period within which an application may be made;
  - (d) the period within which any notice required to be given by the registrar must be provided;
  - (e) circumstances in which an application for restoration under section 96 may be referred to a registration appeals panel for determination;
  - (f) the criteria by reference to which a registration appeals panel is to determine whether or not an entry is to be restored or a direction is to be confirmed or revoked;
  - (g) circumstances in which a fee will be charged for making an application to restore an entry to the register and circumstances in which such a fee may be reduced or waived.

*Appeals to a registration appeals panel*

**101 Appeals against decisions of the registrar**

- (1) A person may appeal to a registration appeals panel against a decision by the registrar—
  - (a) under section 83 not to grant the person's application for registration;
  - (b) under section 86 not to grant the person's application for renewal of his or her registration;
  - (c) to remove an entry in respect of the person from the register under section 94;
  - (d) under section 96 not to grant the person's application for restoration of his or her entry to the register.
- (2) But a person may not appeal against a decision mentioned in subsection (1)(a), (b) or (d) if the decision was taken by reason only that the person failed to—
  - (a) pay any fee required by SCW in connection with the application,
  - (b) make the application in the form and manner required by SCW, or
  - (c) provide documents or information in support of the application as required by the registrar.

**102 Appeals to the registration appeals panel: procedure**

- (1) An appeal under section 101 must be made by giving notice of appeal to the registrar.

- (2) Rhaid rhoi'r hysbysiad cyn diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r diwrnod perthnasol.
- (3) Ond caiff y cofrestrydd ganiatáu i apêl gael ei gwneud ar ôl diwedd y cyfnod a grybwyllir yn is-adran (2) os yw wedi ei fodloni bod rhesymau da dros fethu â rhoi hysbysiad cyn diwedd y cyfnod hwnnw (a thros unrhyw oedi o ran rhoi hysbysiad ar ôl yr amser priodol).
- (4) Yn is-adran (2) ystyr "diwrnod perthnasol" yw –
  - (a) yn achos penderfyniad a grybwyllir yn is-adran 101(1)(a) neu (b), y diwrnod y rhoddir hysbysiad o'r penderfyniad o dan adran 89,
  - (b) yn achos penderfyniad a grybwyllir yn adran 101(1)(c), y diwrnod y rhoddir hysbysiad o'r penderfyniad o dan adran 94, ac
  - (c) yn achos penderfyniad a grybwyllir yn adran 101(1)(d), y diwrnod y rhoddir hysbysiad o'r penderfyniad o dan adran 96.

### **103 Penderfyniadau ar apêl i'r panel apelau cofrestru**

Ar apêl o dan adran 101, caiff panel apelau cofrestru –

- (a) cadarnhau penderfyniad y cofrestrydd,
- (b) rhoi penderfyniad arall o fath y gallai'r cofrestrydd fod wedi ei wneud yn lle'r penderfyniad y gwneir apêl yn ei erbyn, neu
- (c) anfon yr achos yn ôl at y cofrestrydd i'w waredu yn unol â chyfarwyddydau'r panel.

*Apelau i'r tribiwnlys*

### **104 Apelau yn erbyn penderfyniadau panel apelau cofrestru**

- (1) Mae'r adran hon yn gymwys pan fo panel apelau cofrestru –
  - (a) yn gwneud dyfarniad o dan adran 98(1)(b) na ddylai cofnod yn y gofrestr gael ei adfer am reswm sy'n ymwneud ag addasrwydd y person i ymarfer;
  - (b) yn cyfarwyddo o dan adran 98(4) na chaiff person gyflwyno ceisiadau pellach i adfer i ran o'r gofrestr, neu'n cadarnhau cyfarwyddyd o'r fath o dan adran 99(2);
  - (c) yn gwneud dyfarniad mewn cysylltiad â chais i adfer a atgyfeirir iddo yn rhinwedd rheolau a wneir o dan adran 100(2)(e) am reswm sy'n ymwneud ag addasrwydd y person i ymarfer;
  - (d) yn gwneud dyfarniad o dan adran 103 mewn cysylltiad ag apêl yn erbyn penderfyniad y cofrestrydd.
- (2) Caiff y person y mae penderfyniad y panel yn ymwneud ag ef apelio i'r tribiwnlys yn erbyn y penderfyniad.
- (3) Rhaid i apêl o dan yr adran hon gael ei dwyn cyn diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â dyddiad penderfyniad y panel.

- (2) The notice must be given before the end of the period of 28 days beginning with the relevant day.
- (3) But the registrar may allow an appeal to be made after the end of the period mentioned in subsection (2) if satisfied that there are good reasons for a failure to give notice before the end of that period (and for any delay in giving notice out of time).
- (4) In subsection (2) “relevant day” means –
  - (a) in the case of a decision mentioned in section 101(1)(a) or (b), the day on which notice of the decision is given under section 89,
  - (b) in the case of a decision mentioned in section 101(1)(c), the day on which notice of the decision is given under section 94, and
  - (c) in the case of a decision mentioned in section 101(1)(d), the day on which notice of the decision is given under section 96.

### **103 Decisions on appeal to the registration appeals panel**

On an appeal under section 101 a registration appeals panel may –

- (a) confirm the registrar’s decision,
- (b) substitute for the decision appealed against another decision of a kind that the registrar could have made, or
- (c) remit the case to the registrar to dispose of in accordance with the directions of the panel.

#### *Appeals to the tribunal*

### **104 Appeals against decisions of a registration appeals panel**

- (1) This section applies where a registration appeals panel –
  - (a) makes a determination under section 98(1)(b) that an entry in the register should not be restored for a reason that relates to the person’s fitness to practise;
  - (b) directs under section 98(4) that a person may not make further applications for restoration to a part of the register, or confirms such a direction under section 99(2);
  - (c) makes a determination in respect of an application for restoration referred to it by virtue of rules made under section 100(2)(e) for a reason that relates to the person’s fitness to practice;
  - (d) makes a determination under section 103 in respect of an appeal against a decision of the registrar.
- (2) The person to whom the panel’s decision relates may appeal against it to the tribunal.
- (3) An appeal under this section must be brought before the end of the period of 28 days beginning with the date of the panel’s decision.

- (4) Ond caiff y tribiwnlys ganiatáu i apêl gael ei gwneud iddo ar ôl diwedd y cyfnod a grybwyllir yn is-adran (3) os yw wedi ei fodloni bod rheswm da dros fethu ag apelio cyn diwedd y cyfnod hwnnw (a thros unrhyw oedi o ran gwneud cais am ganiatâd i apelio ar ôl yr amser priodol).
- (5) Ar apêl o dan yr adran hon, caiff y tribiwnlys –
  - (a) cadarnhau'r penderfyniad,
  - (b) rhoi penderfyniad arall y gallai'r panel fod wedi ei wneud yn lle penderfyniad y panel, neu
  - (c) anfon yr achos yn ôl i GCC í'w waredu yn unol â chyfarwyddydau'r tribiwnlys.

### **105 Apelau eraill: penderfyniadau a wneir o dan y Rheoliadau Systemau Cyffredinol**

- (1) Mae'r adran hon yn gymwys pan fo GCC wedi gwneud penderfyniad –
  - (a) o dan reoliad 9(2) o'r Rheoliadau Systemau Cyffredinol o ran a yw person yn darparu gwasanaethau fel gweithiwr cymdeithasol yn y Deyrnas Unedig ar sail dros dro ac achlysurol, neu
  - (b) o dan Ran 3 o'r Rheoliadau hynny mewn cysylltiad â phrawf tueddfryd, neu gyfnod addasu, mewn cysylltiad â pherson yn cael caniatâd, yn rhinwedd y Rhan honno, i gael mynediad at broffesiwn gweithiwr cymdeithasol yn y Deyrnas Unedig ac i ddilyn y proffesiwn hwnnw.
- (2) Caiff y person y mae'r penderfyniad yn ymwneud ag ef apelio í'r tribiwnlys yn erbyn y penderfyniad.
- (3) Rhaid i apêl o dan is-adran (2) gael ei dwyn cyn diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r dyddiad yr hysbyswyd y person gan GCC am y penderfyniad.
- (4) Ond caiff y tribiwnlys ganiatáu i apêl gael ei gwneud iddo ar ôl diwedd y cyfnod a grybwyllir yn is-adran (3) os yw wedi ei fodloni bod rheswm da dros fethu ag apelio cyn diwedd y cyfnod (a thros unrhyw oedi o ran gwneud cais am ganiatâd i apelio ar ôl yr amser priodol).
- (5) Ar apêl o dan yr adran hon, caiff y tribiwnlys –
  - (a) cadarnhau'r penderfyniad,
  - (b) rhoi penderfyniad arall y gallai GCC fod wedi ei wneud yn lle'r penderfyniad y gwneir apêl yn ei erbyn, neu
  - (c) anfon yr achos yn ôl i GCC í'w waredu yn unol â chyfarwyddydau'r tribiwnlys.

*Hysbysu'r cofrestrydd am newidiadau i wybodaeth etc.*

### **106 Dyletswydd i hysbysu'r cofrestrydd am newidiadau i wybodaeth gofrestru**

- (1) Rhaid i GCC drwy reolau ei gwneud yn ofynnol i berson sydd wedi ei gofrestru mewn rhan o'r gofrestr roi hysbysiad í'r cofrestrydd o newidiadau í'r wybodaeth a gofnodir yn y gofrestr mewn cysylltiad â'r person hwnnw.
- (2) Caiff rheolau o dan is-adran (1), yn benodol, gynnwys darpariaeth ynghylch –
  - (a) y newidiadau i roi hysbysiad yn eu cylch,

- (4) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (3) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (5) On an appeal under this section, the tribunal may –
  - (a) confirm the decision,
  - (b) substitute for the panel’s decision another decision which the panel could have made, or
  - (c) remit the case to SCW to dispose of in accordance with the directions of the tribunal.

### 105 Other appeals: decisions made under the General Systems Regulations

- (1) This section applies where SCW has made a decision –
  - (a) under regulation 9(2) of the General Systems Regulations as to whether a person is providing services as a social worker in the United Kingdom on a temporary and occasional basis, or
  - (b) under Part 3 of those Regulations in respect of an aptitude test, or period of adaptation, in connection with a person’s becoming permitted, by virtue of that Part, to have access to, and to pursue, the profession of social worker in the United Kingdom.
- (2) The person to whom the decision relates may appeal against it to the tribunal.
- (3) An appeal under subsection (2) must be brought before the end of the period of 28 days beginning with the date the person was notified by SCW of the decision.
- (4) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (3) if it is satisfied that there is a good reason for the failure to appeal before the end of the period (and for any delay in applying for permission to appeal out of time).
- (5) On an appeal under this section, the tribunal may –
  - (a) confirm the decision,
  - (b) substitute for the decision appealed against another decision that SCW could have made, or
  - (c) remit the case to SCW to dispose of in accordance with the directions of the tribunal.

*Notifying the registrar of changes to information etc.*

### 106 Duty to notify the registrar of changes to registration information

- (1) SCW must by rules require a person registered in a part of the register to give notice to the registrar of changes to the information recorded in the register in respect of that person.
- (2) Rules under subsection (1) may, in particular, include provision about –
  - (a) the changes to be notified,



- (b) ym mha fodd y mae rhaid rhoi hysbysiad a'r cyfnod ar gyfer gwneud hynny, ac
- (c) canlyniadau methu â chydymffurfio ag unrhyw ofynion sydd wedi eu cynnwys yn y rheolau (a gaiff gynnwys atgyfeirio'r mater i banel addasrwydd i ymarfer).

**107 Ceisiadau am wybodaeth sy'n ymwneud ag addasrwydd i ymarfer**

- (1) Caiff GCC drwy reolau awdurdodi'r cofrestrwydd i wneud cais am wybodaeth oddi wrth bersonau sydd wedi eu cofrestru mewn unrhyw ran o'r gofrestr sy'n ymwneud â'u haddasrwydd i ymarfer.
- (2) Caiff y rheolau, yn benodol, wneud darpariaeth ynghylch—
  - (a) ym mha fodd ac ar ba ffurf y mae cais i gael ei wneud;
  - (b) amllder y ceisiadau;
  - (c) yr wybodaeth y caniateir i'r cofrestrwydd wneud cais amdani a'r wybodaeth na chaniateir i'r cofrestrwydd wneud cais amdani;
  - (d) canlyniadau methu â chydymffurfio â chais (a gaiff gynnwys atgyfeirio'r mater i banel addasrwydd i ymarfer).

*Dyletswydd i gyhoeddi'r gofrestr etc.*

**108 Cyhoeddi etc. y gofrestr**

- (1) Rhaid i GCC gyhoeddi'r gofrestr yn y modd, ac ar yr adegau, sy'n briodol yn ei farn ef.
- (2) Rhaid i GCC gydymffurfio ag unrhyw gais rhesymol a wneir gan berson i gael copi o'r gofrestr neu ddarn ohoni.

**109 Cyhoeddi penderfyniadau penodol panel apelau cofrestru**

- (1) Rhaid i GCC gyhoeddi'r penderfyniadau a ganlyn—
  - (a) penderfyniad panel apelau cofrestru o dan adran 98(1)(b) i beidio ag adfer person i'r gofrestr;
  - (b) penderfyniad panel apelau cofrestru o dan adran 98(4) na chaiff person wneud ceisiadau pellach i adfer i'r gofrestr.
- (2) Ond ni chaniateir i GCC gyhoeddi unrhyw wybodaeth am iechyd corfforol neu iechyd meddwl person.

**110 Rhestr o bersonau sydd wedi eu tynnu oddi ar y gofrestr**

- (1) Rhaid i GCC gadw rhestr o'r personau y mae eu cofnodion yn y gofrestr wedi eu dileu o dan yr amgylchiadau y mae'r adran hon yn gymwys iddynt.
- (2) Mae'r adran hon yn gymwys pan fo person yn ddarostyngedig i orchymyn dileu a wneir gan banel addasrwydd i ymarfer o dan—
  - (a) adran 138(9) (gwaredu yn dilyn canfyddiad o amhariad ar addasrwydd i ymarfer), neu
  - (b) adran 152(8)(e), 153(9)(d) neu 154(8)(d) (gwaredu mewn achos adolygu yn dilyn canfyddiad o amhariad ar addasrwydd i ymarfer).

- (b) the manner in which and the time within which a notice must be given, and
- (c) the consequences of failing to comply with any requirements contained in the rules (which may include referral of the matter to a fitness to practise panel).

**107 Requests for information relating to fitness to practise**

- (1) SCW may by rules authorise the registrar to make requests for information from persons registered in any part of the register which relates to their fitness to practise.
- (2) The rules may, in particular, make provision about—
  - (a) the manner and form in which a request is to be made;
  - (b) the frequency of requests;
  - (c) the information which may and may not be requested by the registrar;
  - (d) the consequences of a failure to comply with a request (which may include referral of the matter to a fitness to practise panel).

*Duty to publish the register etc.*

**108 Publication etc. of the register**

- (1) SCW must publish the register in such manner, and at such times, as it thinks appropriate.
- (2) SCW must comply with any reasonable request made by a person for a copy of, or an extract from, the register.

**109 Publication of certain registration appeal panel decisions**

- (1) SCW must publish the following decisions—
  - (a) a decision of a registration appeals panel under section 98(1)(b) not to restore a person to the register;
  - (b) a decision of a registration appeals panel under section 98(4) that a person may not make further applications for restoration to the register.
- (2) But SCW must not publish any information about a person's physical or mental health.

**110 List of persons removed from the register**

- (1) SCW must keep a list of persons whose entries in the register have been removed in circumstances to which this section applies.
- (2) This section applies where a person is subject to a removal order made by a fitness to practise panel under—
  - (a) section 138(9) (disposal following a finding of impairment of fitness to practise), or
  - (b) section 152(8)(e), 153(9)(d) or 154(8)(d) (disposal in a review case following a finding of impairment of fitness to practise).

- (3) Ni chaniateir i gofnod gael ei wneud yn y rhestr sy'n ymwneud â pherson sy'n ddarostyngedig i orchymyn dileu o'r fath hyd nes bod y penderfyniad wedi cymryd effaith o dan adran 141(5) neu 157(6) (yn ôl y digwydd).
- (4) Mae'r adran hon hefyd yn gymwys pan fo person yn ddarostyngedig i orchymyn ar gyfer dileu drwy gytundeb a wneir gan banel addasrwydd i ymarfer o dan—
  - (a) adran 135 (dileu o'r gofrestr ar sail gydsyniol), neu
  - (b) adran 152(2), 153(2), 154(2), neu 155(5) (gwaredu mewn achos adolygu).
- (5) Pan fo person yn ddarostyngedig i orchymyn o'r fath ar gyfer dileu drwy gytundeb rhaid i'r rhestr roi manylion am y datganiad o ffeithiau y cytunwyd arno o dan adran 135(2) neu 150(2) (yn ôl y digwydd).
- (6) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ynghylch—
  - (a) ffurf a chynnwys y rhestr;
  - (b) cyhoeddi'r rhestr neu wybodaeth benodedig o'r rhestr;
  - (c) yr amgylchiadau pan fo rhaid dileu cofnod sy'n ymwneud â pherson o'r rhestr.

*Diogelu teitl "gweithiwr cymdeithasol" etc.*

#### **111 Defnyddio teitl "gweithiwr cymdeithasol" etc.**

- (1) Mae'n drosedd i berson yng Nghymru nad yw wedi ei gofrestru mewn cofrestr berthnasol fel gweithiwr cymdeithasol—
  - (a) cymryd neu ddefnyddio teitl gweithiwr cymdeithasol,
  - (b) cymryd neu ddefnyddio unrhyw deitl neu ddisgrifiad sy'n ymhlygu cofrestriad fel gweithiwr cymdeithasol, neu
  - (c) esgus bod yn weithiwr cymdeithasol mewn unrhyw ffordd arall, gyda'r bwriad o dwyllo person arall.
- (2) Mae'n drosedd i berson yng Nghymru nad yw wedi ei gofrestru mewn cofrestr berthnasol fel gweithiwr gofal cymdeithasol o unrhyw ddisgrifiad arall a ragnodir—
  - (a) cymryd neu ddefnyddio teitl y disgrifiad hwnnw o weithiwr gofal cymdeithasol,
  - (b) cymryd neu ddefnyddio unrhyw deitl neu ddisgrifiad sy'n ymhlygu cofrestriad fel gweithiwr gofal cymdeithasol o'r fath, neu
  - (c) esgus bod yn weithiwr gofal cymdeithasol o'r fath mewn unrhyw ffordd arall, gyda'r bwriad o dwyllo person arall.
- (3) Mae person sy'n euog o drosedd o dan yr adran hon yn agored ar gollfarn ddiannod i ddirwy.
- (4) At ddibenion yr adran hon mae cofrestr yn "cofrestr perthnasol" os yw'n gofrestr a gedwir gan—
  - (a) GCC,
  - (b) Cyngor y Proffesiynau Iechyd a Gofal,
  - (c) Cyngor Gwasanaethau Cymdeithasol yr Alban, neu
  - (d) Cyngor Gofal Cymdeithasol Gogledd Iwerddon.

- (3) An entry may not be made in the list relating to a person subject to such a removal order until the decision has taken effect under section 141(5) or 157(6) (as the case may be).
- (4) This section also applies where a person is subject to an order for removal by agreement made by a fitness to practise panel under –
  - (a) section 135 (removal from register on consensual basis), or
  - (b) section 152(2), 153(2), 154(2), or 155(5) (disposal in a review case).
- (5) Where a person is subject to such an order for removal by agreement the list must give details of the statement of facts agreed under section 135(2) or 150(2) (as the case may be).
- (6) The Welsh Ministers may by regulations make provision about –
  - (a) the form and content of the list;
  - (b) the publication of the list or specified information from the list;
  - (c) circumstances in which an entry relating to a person must be removed from the list.

*Protection of title “social worker” etc.*

**111 Use of title “social worker” etc.**

- (1) It is an offence for a person in Wales who is not registered in a relevant register as a social worker to –
  - (a) take or use the title of social worker,
  - (b) take or use any title or description implying registration as a social worker, or
  - (c) pretend to be a social worker in any other way,with intent to deceive another.
- (2) It is an offence for a person in Wales who is not registered in a relevant register as a social care worker of such other description as may be prescribed to –
  - (a) take or use the title of that description of social care worker,
  - (b) take or use any title or description implying registration as such a social care worker, or
  - (c) pretend to be such a social care worker in any other way,with intent to deceive another.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (4) For the purposes of this section a register is a “relevant register” if it is a register kept by –
  - (a) SCW,
  - (b) the Health and Care Professions Council,
  - (c) the Scottish Social Services Council, or
  - (d) the Northern Ireland Social Care Council.

- (5) Caiff Gweinidogion Cymru ddiwygio is-adran (4) drwy reoliadau.

## RHAN 5

### GWEITHWYR GOFAL CYMDEITHASOL: SAFONAU YMDDYGIAD, ADDYSG ETC.

#### 112 Codau ymarfer

- (1) Rhaid i GCC lunio, a chyhoeddi o dro i dro, godau ymarfer sy'n pennu –
  - (a) safonau ymddygiad ac ymarfer a ddisgwylir oddi wrth weithwyr gofal cymdeithasol;
  - (b) safonau ymddygiad ac ymarfer a ddisgwylir oddi wrth bersonau sy'n cyflogi neu sy'n ceisio cyflogi gweithwyr gofal cymdeithasol.
- (2) Caiff y codau wneud darpariaeth wahanol mewn cysylltiad â chategoriâu gwahanol o weithiwr gofal cymdeithasol.
- (3) Caiff y codau hefyd bennu'r safonau ymddygiad ac ymarfer a ddisgwylir oddi wrth weithwyr cymdeithasol wrth gyflawni swyddogaethau gweithiwr proffesiynol iechyd meddwl a gymeradwywyd (o fewn ystyr "approved mental health professional" yn adran 114 o Ddeddf Iechyd Meddwl 1983 (p.20)).
- (4) Rhaid i GCC –
  - (a) cadw'r codau o dan adolygiad, a
  - (b) amrywio eu darpariaethau pa bryd bynnag y mae'n meddwl ei bod yn briodol gwneud hynny.
- (5) Pan honnir bod person sydd wedi ei gofrestru mewn unrhyw ran o'r gofrestr wedi methu â chydymffurfio ag unrhyw safon sydd wedi ei chynnwys mewn cod a wneir o dan yr adran hon –
  - (a) nid yw'r methiant hwnnw, ynddo'i hun, i'w gymryd fel pe bai'n berfformiad diffygiol fel gweithiwr gofal cymdeithasol neu gamymddwyn difrifol at ddibenion adran 117 (addasrwydd i ymarfer), ond
  - (b) caniateir i'r methiant hwnnw gael ei ystyried mewn achosion o dan y Ddeddf hon sy'n ymwneud ag addasrwydd y person i ymarfer.
- (6) Rhaid i awdurdod lleol sy'n gwneud unrhyw benderfyniad ynghylch ymddygiad unrhyw weithwyr gofal cymdeithasol y mae'n eu cyflogi, os y'i cyfarwyddir gan Weinidogion Cymru i wneud hynny, ystyried unrhyw god a gyhoeddir gan GCC o dan yr adran hon.

#### 113 Datblygiad proffesiynol parhaus

- (1) Caiff GCC wneud rheolau sy'n ei gwneud yn ofynnol i bersonau sydd wedi eu cofrestru mewn unrhyw ran o'r gofrestr gyflawni hyfforddiant pellach.
- (2) Caiff y rheolau, yn benodol, wneud darpariaeth mewn cysylltiad â phersonau sy'n methu â chydymffurfio ag unrhyw ofynion mewn rheolau a wneir gan GCC o dan is-adran (1), gan gynnwys darpariaeth ar gyfer atgyfeiriadau i banel addasrwydd i ymarfer.

- (5) The Welsh Ministers may amend subsection (4) by regulations.

## PART 5

### SOCIAL CARE WORKERS: STANDARDS OF CONDUCT, EDUCATION ETC.

#### 112 Codes of practice

- (1) SCW must prepare and from time to time publish codes of practice setting –
  - (a) standards of conduct and practice expected of social care workers;
  - (b) standards of conduct and practice expected of persons employing or seeking to employ social care workers.
- (2) The codes may make different provision in respect of different categories of social care worker.
- (3) The codes may also set standards of conduct and practice expected of social workers when carrying out the functions of an approved mental health professional (within the meaning of section 114 of the Mental Health Act 1983 (c.20)).
- (4) SCW must –
  - (a) keep the codes under review, and
  - (b) vary their provisions whenever it thinks it appropriate to do so.
- (5) Where a person registered in any part of the register is alleged to have failed to comply with any standard contained in a code made under this section, that failure –
  - (a) is not, of itself, to be taken to constitute deficient performance as a social care worker or serious misconduct for the purposes of section 117 (fitness to practise), but
  - (b) may be taken into account in proceedings under this Act which relate to the person's fitness to practise.
- (6) A local authority making any decision about the conduct of any social care workers it employs must, if directed to do so by the Welsh Ministers, take into account any code published by SCW under this section.

#### 113 Continuing professional development

- (1) SCW may make rules requiring persons registered in any part of the register to undertake further training.
- (2) The rules may, in particular, make provision with respect to persons who fail to comply with any requirements of rules made by SCW under subsection (1), including provision for referrals to a fitness to practise panel.

- (3) Mae is-adran (1), i'r graddau y mae'n ymwneud â pherson ("P") sydd wedi ei gofrestru fel gweithiwr cymdeithasol yn y rhan ymwelwyr Ewropeaidd o'r gofrestr yn unig, yn cael effaith yn ddarostyngedig i is-adran (4).
- (4) O ran rheolau a wneir o dan is-adran (1) –
  - (a) ni chaniateir iddynt osod gofynion ar P os yw'n ofynnol i P gyflawni hyfforddiant pellach, yng Ngwladwriaeth gartref P, mewn perthynas â phroffesiwn gweithiwr cymdeithasol, ond
  - (b) pan fônt yn gosod gofynion ar P –
    - (i) rhaid iddynt ystyried y ffaith bod P yn weithiwr cymdeithasol cwbl gymwysedig yng Ngwladwriaeth gartref P, a
    - (ii) rhaid iddynt bennu y caniateir i'r hyfforddiant y mae'n ofynnol i P ei gyflawni gael ei gyflawni y tu allan i'r Deyrnas Unedig.
- (5) Yn is-adran (4) ystyr "Gwladwriaeth gartref", mewn perthynas â P, yw'r Wladwriaeth Ewropeaidd berthnasol lle y mae P wedi ei sefydlu'n gyfreithlon fel gweithiwr cymdeithasol.

#### **114 Cymeradwyo cyrsiau etc.**

- (1) Caiff GCC, yn unol â rheolau a wneir ganddo –
  - (a) cymeradwyo cyrsiau mewn gwaith cymdeithasol perthnasol ar gyfer personau sydd wedi eu cofrestru neu sy'n dymuno cofrestru yn y rhan gweithwyr cymdeithasol o'r gofrestr;
  - (b) cymeradwyo cyrsiau yn y gwaith a gaiff ei ymarfer gan bersonau sydd wedi eu cofrestru mewn rhan ychwanegol o'r gofrestr ar gyfer personau sydd wedi eu cofrestru neu sy'n dymuno cofrestru yn y rhan honno o'r gofrestr;
  - (c) cymeradwyo cyrsiau yn y gwaith a gaiff ei ymarfer gan bersonau sy'n weithwyr gofal cymdeithasol neu sy'n dymuno bod yn weithwyr gofal cymdeithasol o ddisgrifiad nad yw wedi ei bennu yn adran 80(1) neu odani.
- (2) Caiff cymeradwyaeth a roddir o dan yr adran hon fod yn ddarostyngedig i unrhyw amodau sy'n briodol ym marn GCC.
- (3) Caiff rheolau a wneir yn rhinwedd yr adran hon, yn benodol, wneud darpariaeth –
  - (a) ynghylch cynnwys cyrsiau a'r dulliau ar gyfer cwblhau cyrsiau;
  - (b) o ran y ddarpariaeth o wybodaeth am gyrsiau i GCC;
  - (c) o ran y personau a gaiff ymgymryd â chyrsiau, neu rannau o gyrsiau a bennir yn y rheolau;
  - (d) o ran niferoedd y personau a gaiff ymgymryd â chyrsiau;
  - (e) o ran dyfarnu tystysgrifau gan GCC o gwblhau cyrsiau yn llwyddiannus;
  - (f) ynghylch darfodiad ac adnewyddiad cymeradwyaethau;
  - (g) ynghylch tynnu cymeradwyaethau yn ôl.

- (3) Subsection (1), so far as relating to a person (“P”) who is registered as a social worker only in the visiting European part of the register, has effect subject to subsection (4).
- (4) Rules made under subsection (1) –
  - (a) may not impose requirements on P if P is required to undertake, in P’s home State, further training in relation to the profession of social worker, but
  - (b) where they impose requirements on P –
    - (i) must take into account of the fact that P is a fully qualified social worker in P’s home State, and
    - (ii) must specify that training which P is required to undertake may be undertaken outside the United Kingdom.
- (5) In subsection (4) “home State”, in relation to P, means the relevant European State in which P is lawfully established as a social worker.

#### **114 Approval of courses etc.**

- (1) SCW may, in accordance with rules made by it –
  - (a) approve courses in relevant social work for persons who are or wish to become registered in the social worker part of the register;
  - (b) approve courses in the work practised by persons registered in an added part of the register for persons who are or wish to become registered in that part of the register;
  - (c) approve courses in the work practised by persons who are or wish to become social care workers of a description which is not specified in or under section 80(1).
- (2) An approval given under this section may be subject to such conditions as SCW thinks appropriate.
- (3) Rules made by virtue of this section may, in particular, make provision –
  - (a) about the content of, and methods of completing, courses;
  - (b) as to the provision of information to SCW about courses;
  - (c) as to the persons who may undertake courses, or parts of courses specified in the rules;
  - (d) as to the numbers of persons who may undertake courses;
  - (e) for the award by SCW of certificates of the successful completion of courses;
  - (f) about the lapse and renewal of approvals;
  - (g) about the withdrawal of approvals.



- (4) Caiff GCC –
- (a) cynnal, neu wneud trefniadau ar gyfer cynnal, archwiliadau mewn cysylltiad â chysiau a grybwyllir yn yr adran hon neu yn adran 116;
  - (b) gwneud gwaith ymchwil, neu helpu personau eraill i wneud gwaith ymchwil, i faterion sy'n berthnasol i hyfforddiant ar gyfer gweithwyr gofal cymdeithasol o unrhyw ddisgrifiad.
- (5) Ni chaniateir i gwrs gael ei gymeradwyo gan GCC o dan yr adran hon oni bai bod GCC yn meddwl y bydd y cwrs yn galluogi personau sy'n ei gwblhau i gyrraedd y safon ofynnol o hyfedredd yng ngwaith gofal cymdeithasol.
- (6) Yn is-adran (5) ystyr "y safon ofynnol o hyfedredd yng ngwaith gofal cymdeithasol" yw'r safon a ddisgrifir mewn rheolau a wneir gan GCC.
- (7) Rhaid i GCC gynnal a chyhoeddi rhestr o'r cyrsiau y mae wedi eu cymeradwyo o dan yr adran hon.

### **115 Arolygiadau mewn cysylltiad â chysiau penodol**

- (1) Caiff GCC drwy reolau wneud darpariaeth ar gyfer arolygu manau lle y gwneir y canlynol neu ar gyfer arolygu sefydliadau y gwneir y canlynol ganddynt neu o dan eu cyfarwyddyd –
- (a) y rhoddir, neu y bwriedir rhoi, unrhyw gwrs perthnasol (neu ran o gwrs o'r fath), neu
  - (b) y cynhelir unrhyw archwiliad, neu y bwriedir cynnal unrhyw archwiliad, mewn cysylltiad ag unrhyw gwrs perthnasol.
- (2) Caiff y rheolau wneud darpariaeth –
- (a) ar gyfer penodi personau i gynnal arolygiadau ("arolygwyr");
  - (b) i adroddiadau gael eu gwneud gan arolygwyr –
    - (i) ar natur ac ansawdd y cyfarwyddyd a roddir, neu sydd i'w roi, a'r cyfleusterau a ddarperir, neu sydd i'w darparu, yn y man neu gan y sefydliad yr ymwelir ag ef;
    - (ii) ar unrhyw faterion eraill a bennir yn y rheolau;
  - (c) i GCC dalu ffioedd, lwfansau a threuliau i bersonau a benodir yn arolygwyr;
  - (d) i bersonau o'r fath gael eu trin, at ddibenion Atodlen 2, fel aelodau o staff GCC.
- (3) Yn is-adran (1) ystyr "cwrs perthnasol", mewn perthynas â GCC, yw –
- (a) unrhyw gwrs y rhoddwyd cymeradwyaeth ar ei gyfer gan GCC, neu y ceisir cymeradwyaeth o'r fath, o dan adran 114, neu
  - (b) unrhyw hyfforddiant y caiff fod yn ofynnol, yn rhinwedd rheolau a wneir o dan adran 113(1), i berson sydd wedi ei dderbyn i ran o'r gofrestr ei gwblhau ar ôl cofrestru.

- (4) SCW may –
  - (a) conduct, or make arrangements for the conduct of, examinations in connection with such courses as are mentioned in this section or section 116;
  - (b) carry out, or assist other persons in carrying out, research into matters relevant to training for social care workers of any description.
- (5) A course must not be approved by SCW under this section unless SCW thinks that the course will enable persons completing it to attain the required standard of proficiency in social care work.
- (6) In subsection (5) “the required standard of proficiency in social care work” means the standard described in rules made by SCW.
- (7) SCW must maintain and publish a list of the courses it has approved under this section.

### **115 Inspections in connection with certain courses**

- (1) SCW may by rules make provision for the inspection of places at which or institutions by which or under whose direction –
  - (a) any relevant course (or part of such a course) is, or is proposed to be, given, or
  - (b) any examination is, or is proposed to be, held in connection with any relevant course.
- (2) The rules may make provision –
  - (a) for the appointment of persons to carry out inspections (“inspectors”);
  - (b) for reports to be made by inspectors on –
    - (i) the nature and quality of the instruction given, or to be given, and the facilities provided, or to be provided, at the place or by the institution visited;
    - (ii) such other matters as may be specified in the rules;
  - (c) for the payment by SCW of fees, allowances and expenses to persons appointed as inspectors;
  - (d) for such persons to be treated, for the purposes of Schedule 2, as members of the SCW’s staff.
- (3) In subsection (1) “relevant course”, in relation to SCW, means –
  - (a) any course for which approval by SCW has been given, or is being sought, under section 114, or
  - (b) any training which a person admitted to a part of the register may, by virtue of rules made under section 113(1), be required to undergo after registration.

**116 Swyddogaethau eraill GCC mewn cysylltiad ag addysg a hyfforddiant**

- (1) Os ymddengys i GCC nad oes darpariaeth ddigonol yn cael ei gwneud ar gyfer hyfforddi personau sy'n weithwyr gofal cymdeithasol o unrhyw ddisgrifiad neu sy'n dymuno bod yn weithwyr gofal cymdeithasol o unrhyw ddisgrifiad, caiff GCC ddarparu cyrsiau at y diben hwnnw neu sicrhau bod cyrsiau o'r fath yn cael eu darparu.
- (2) Caiff GCC hefyd, ar unrhyw delerau ac yn ddarostyngedig i unrhyw amodau sy'n briodol yn ei farn ef –
  - (a) gwneud grantiau, a thalu lwfansau teithio a lwfansau eraill, i bersonau sy'n preswyllo yng Nghymru er mwyn sicrhau eu hyfforddiant yng ngwaith gweithwyr gofal cymdeithasol o unrhyw ddisgrifiad;
  - (b) gwneud grantiau i sefydliadau sy'n darparu hyfforddiant yng ngwaith gweithwyr gofal cymdeithasol o unrhyw ddisgrifiad.

**RHAN 6****GWEITHWYR GOFAL CYMDEITHASOL: ADDASRWYDD I YMARFER****PENNOD 1****SEILIAU AMHARIAD****117 Addasrwydd i ymarfer**

- (1) Dim ond am un neu ragor o'r seiliau a ganlyn y caniateir ystyried bod amhariad ar addasrwydd person i ymarfer at ddibenion y Rhan hon a Rhan 4 –
  - (a) perfformiad diffygiol fel gweithiwr gofal cymdeithasol;
  - (b) camymddwyn difrifol (pa un ai fel gweithiwr gofal cymdeithasol neu fel arall);
  - (c) cynnwys y person ar restr wahardd;
  - (d) dyfarniad gan gorff perthnasol i'r perwyl bod amhariad ar addasrwydd y person i ymarfer;
  - (e) iechyd corfforol neu iechyd meddwl andwyol;
  - (f) collfarn neu rybuddiad yn y Deyrnas Unedig am drosedd, neu gollfarn neu rybuddiad yn rhywle arall am dramgwydd a fyddai'n drosedd pe bai wedi ei gyflawni yng Nghymru a Lloegr.
- (2) At ddibenion is-adran (1)(a) caiff "perfformiad diffygiol fel gweithiwr gofal cymdeithasol" gynnwys –
  - (a) achos o esgeuluster,
  - (b) torri ymgymeriad y cytunir arno â GCC o dan y Ddeddf hon, ac
  - (c) torri ymgymeriad y cytunir arno â phanel addasrwydd i ymarfer o dan y Ddeddf hon.
- (3) Yn is-adran (1)(c) ystyr "rhestr wahardd" yw –
  - (a) rhestr a gynhelir o dan adran 2 o Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p.47);

**116 Other functions of SCW in respect of education and training**

- (1) If it appears to SCW that adequate provision is not being made for training persons who are or wish to become social care workers of any description, SCW may provide, or secure the provision of, courses for that purpose.
- (2) SCW may also, upon such terms and subject to such conditions as it thinks appropriate—
  - (a) make grants, and pay travelling and other allowances, to persons resident in Wales in order to secure their training in the work of social care workers of any description;
  - (b) make grants to organisations providing training in the work of social care workers of any description.

**PART 6**

**SOCIAL CARE WORKERS: FITNESS TO PRACTISE**

**CHAPTER 1**

**FOUNDATIONS OF IMPAIRMENT**

**117 Fitness to practise**

- (1) A person's fitness to practise may be regarded as impaired for the purposes of this Part and Part 4 by reason only of one or more of the following grounds—
  - (a) deficient performance as a social care worker;
  - (b) serious misconduct (whether as a social care worker or otherwise);
  - (c) the inclusion of the person in a barred list;
  - (d) a determination by a relevant body to the effect that the person's fitness to practise is impaired;
  - (e) adverse physical or mental health;
  - (f) a conviction or caution in the United Kingdom for a criminal offence, or a conviction or caution elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence.
- (2) For the purposes of subsection (1)(a) "deficient performance as a social care worker" may include—
  - (a) an instance of negligence,
  - (b) a breach of an undertaking agreed with SCW under this Act, and
  - (c) a breach of an undertaking agreed with a fitness to practise panel under this Act.
- (3) In subsection (1)(c) "barred list" means—
  - (a) a list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006 (c.47);

- (b) rhestr a gedwir o dan adran 1 o Ddeddf Amddiffyn Grwpiau Hyglwyf (Yr Alban) 2007 (dsa 14);
  - (c) rhestr a gynhelir o dan erthygl 6 o Orchymyn Diogelu Grwpiau Hyglwyf (Gogledd Iwerddon) 2007 (O.S. 2007/1351).
- (4) Yn is-adran (1)(d) ystyr “corff perthnasol” yw –
- (a) y Cyngor Proffesiynau Iechyd a Gofal;
  - (b) y Cyngor Nyrsio a Bydwreigiaeth;
  - (c) Cyngor Gwasanaethau Cymdeithasol yr Alban;
  - (d) Cyngor Gofal Cymdeithasol Gogledd Iwerddon;
  - (e) corff y tu allan i’r Deyrnas Unedig sy’n gyfrifol am reoleiddio gweithgareddau a fyddai, yng Nghymru, yn cael eu rheoleiddio gan GCC;
  - (f) corff rhagnodedig.
- (5) Caniateir ystyried bod amhariad ar addasrwydd person i ymarfer oherwydd materion sy’n codi neu ddigwyddiadau sy’n digwydd –
- (a) pa un ai y tu mewn neu y tu allan i Gymru;
  - (b) pa un a oedd y person wedi ei gofrestru ar y gofrestr ar y pryd ai peidio;
  - (c) pa un ai cyn neu ar ôl i’r adran hon ddod i rym.
- (6) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio is-adran (1) at ddiben ychwanegu, addasu neu ddileu sail amhariad.

## PENNOD 2

### GWEITHDREFNAU RHAGARWEINIOL

*Ystyriaeth ragarweiniol i honiadau etc.*

#### 118 **Atgyfeirio honiadau etc. o amhariad ar addasrwydd i ymarfer**

- (1) Mae’r adran hon yn gymwys –
- (a) pan fo honiad yn cael ei wneud i GCC bod amhariad ar addasrwydd person cofrestredig i ymarfer, neu
  - (b) pan fo gan GCC reswm fel arall dros gredu y gall fod amhariad ar addasrwydd person cofrestredig i ymarfer.
- (2) O ran GCC –
- (a) rhaid iddo atgyfeirio am ystyriaeth ragarweiniol y mater sy’n destun yr honiad neu ei reswm dros gredu y gall fod amhariad ar addasrwydd y person cofrestredig i ymarfer, a
  - (b) caiff atgyfeirio’r mater i banel gorchmynion interim (gweler Pennod 4).

- (b) a list kept under section 1 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14);
  - (c) a list maintained under article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351).
- (4) In subsection (1)(d) “relevant body” means –
- (a) the Health and Care Professions Council;
  - (b) the Nursing and Midwifery Council;
  - (c) the Scottish Social Services Council;
  - (d) the Northern Ireland Social Care Council;
  - (e) a body outside of the United Kingdom which is responsible for the regulation of activities which would, in Wales, be regulated by SCW;
  - (f) a prescribed body.
- (5) A person’s fitness to practise may be regarded as impaired by reason of matters arising or incidents occurring –
- (a) whether inside or outside of Wales;
  - (b) whether or not the person was registered on the register at the time;
  - (c) whether before or after this section comes into force.
- (6) The Welsh Ministers may by regulations amend subsection (1) for the purpose of adding, modifying or removing a ground of impairment.

## CHAPTER 2

### PRELIMINARY PROCEDURES

#### *Preliminary consideration of allegations etc.*

#### **118 Referral of allegations etc. of impaired fitness to practise**

- (1) This section applies where –
- (a) an allegation is made to SCW that a registered person’s fitness to practise is impaired, or
  - (b) SCW otherwise has reason to believe that a registered person’s fitness to practise may be impaired.
- (2) SCW –
- (a) must refer for preliminary consideration the matter which is the subject of the allegation or its reason to believe that the registered person’s fitness to practise may be impaired, and
  - (b) may refer the matter to an interim orders panel (see Chapter 4).

**119 Ystyriaeth ragarweiniol**

- (1) Rhaid i'r person sy'n rhoi ystyriaeth ragarweiniol i fater a atgyfeirir gan GCC atgyfeirio'r mater hwnnw i ymchwilio iddo o dan adran 125 oni bai –
  - (a) bod y person yn dyfarnu nad yw'r mater yn gymwys i'w atgyfeirio ymlaen o dan adran 120, neu
  - (b) ei bod yn ofynnol i'r person drwy adran 121 atgyfeirio'r mater yn uniongyrchol i banel addasrwydd i ymarfer.
- (2) Caiff y person sy'n rhoi ystyriaeth ragarweiniol i fater atgyfeirio'r mater, ar unrhyw adeg, i banel gorchmynion interim (yn ychwanegol at wneud atgyfeiriad neu ddyfarniad o dan is-adran (1)).
- (3) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch y weithdrefn ar gyfer ystyriaeth ragarweiniol a gaiff, yn benodol, ddarparu i'r canlynol gynnal ystyriaeth ragarweiniol –
  - (a) un neu ragor o bersonau a benodir at y diben hwnnw, ar unrhyw delerau ac amodau (gan gynnwys tâl) y mae GCC yn penderfynu arnynt;
  - (b) un neu ragor o aelodau o staff GCC.
- (4) Ond ni chaiff rheolau a wneir o dan is-adran (3) ddarparu i'r canlynol gynnal ystyriaeth ragarweiniol –
  - (a) person sy'n aelod o –
    - (i) GCC,
    - (ii) y Cyngor Proffesiynau Iechyd a Gofal,
    - (iii) Cyngor Gwasanaethau Cymdeithasol yr Alban, neu
    - (iv) Cyngor Gofal Cymdeithasol Gogledd Iwerddon;
  - (b) person sy'n aelod o banel addasrwydd i ymarfer;
  - (c) person sy'n aelod o banel gorchmynion interim;
  - (d) person rhagnodedig.
- (5) Rhaid i GCC wneud unrhyw drefniadau sy'n briodol yn ei farn ef i hwyluso cydweithredu rhwng –
  - (a) person sydd wedi gwneud honiad bod amhariad ar addasrwydd person cofrestredig i ymarfer, a
  - (b) y person sy'n rhoi ystyriaeth ragarweiniol i'r honiad.

**120 Cymhwystra ar gyfer atgyfeirio ymlaen**

- (1) Mae mater yn gymwys i'w atgyfeirio ymlaen oni bai –
  - (a) bod y mater yn ymwneud ag ymddygiad neu ddigwyddiad a ddigwyddodd 5 mlynedd neu ragor cyn y dyddiad perthnasol ac nad oes unrhyw un o'r eithriadau yn is-adran (4) yn gymwys,
  - (b) bod y person a benodir i roi ystyriaeth ragarweiniol i'r mater yn meddwl bod yr honiad yn flinderus, neu

**119 Preliminary consideration**

- (1) The person giving preliminary consideration to a matter referred by SCW must refer that matter for investigation under section 125 unless –
  - (a) the person determines that the matter is not eligible for onward referral under section 120, or
  - (b) the person is required by section 121 to refer the matter directly to a fitness to practise panel.
- (2) The person giving preliminary consideration to a matter may, at any stage, refer the matter to an interim orders panel (in addition to making a referral or determination under subsection (1)).
- (3) SCW must by rules make provision about the procedure for preliminary consideration which may, in particular, provide for preliminary consideration to be carried out by –
  - (a) one or more persons appointed for that purpose, on such terms and conditions (including remuneration) as SCW may determine;
  - (b) one or more members of SCW's staff.
- (4) But rules made under subsection (3) may not provide for preliminary consideration to be carried out by –
  - (a) a person who is a member of –
    - (i) SCW,
    - (ii) the Health and Care Professions Council,
    - (iii) the Scottish Social Services Council, or
    - (iv) the Northern Ireland Social Care Council;
  - (b) a person who is a member of a fitness to practise panel;
  - (c) a person who is a member of an interim orders panel;
  - (d) a prescribed person.
- (5) SCW must make such arrangements as it thinks appropriate to facilitate co-operation between –
  - (a) a person who has made an allegation that a registered person's fitness to practise is impaired, and
  - (b) the person giving preliminary consideration to the allegation.

**120 Eligibility for onward referral**

- (1) A matter is eligible for onward referral unless –
  - (a) the matter relates to conduct or an incident which occurred 5 years or more before the relevant date and none of the exceptions in subsection (4) apply,
  - (b) the person appointed to give the matter preliminary consideration thinks the allegation is vexatious, or



- (c) pan fo honiad wedi ei wneud yn ddiennw, neu gan berson sy'n methu â chydymffurfio â'r weithdrefn ystyriaeth ragarweiniol, na all y person a benodir i roi ystyriaeth ragarweiniol i'r mater ei wirio.
- (2) Yn is-adran (1) mae'r cyfeiriad at atgyfeirio ymlaen yn gyfeiriad at—
- atgyfeirio i banel addasrwydd i ymarfer o dan adran 121, neu
  - atgyfeirio ar gyfer ymchwiliad o dan adran 125.
- (3) Yn is-adran (1)(a) ystyr "dyddiad perthnasol" yw—
- dyddiad yr honiad o dan adran 118(1)(a), neu
  - pan na fo honiad wedi ei wneud o dan yr adran honno, y dyddiad y daeth GCC yn ymwybodol o'r mater yn gyntaf.
- (4) At ddibenion is-adran (1)(a) yr eithriadau yw—
- bod y mater yn ymwneud â cholffarn person cofrestredig am drosedd berthnasol;
  - bod y mater yn ymwneud â chynnwys y person cofrestredig ar restr wahardd (fel y'i diffinnir yn adran 117);
  - bod y mater yn ymwneud â dyfarniad gan gorff perthnasol (fel y'i diffinnir yn adran 117) i'r perwyl bod amhariad ar addasrwydd person cofrestredig i ymarfer;
  - bod y person sy'n rhoi ystyriaeth ragarweiniol i'r mater yn meddwl ei bod er budd y cyhoedd i'r mater gael ei atgyfeirio ar gyfer ymchwiliad.
- (5) At ddibenion is-adran (4)(a) ac adran 121, trosedd berthnasol yw—
- yn achos collfarn gan lys yn y Deyrnas Unedig, trosedd y gosodwyd dedfryd o garchar, neu y gellid bod wedi gosod dedfryd o garchar, mewn cysylltiad â hi, neu
  - yn achos collfarn gan lys yn rhywle arall, trosedd y gallai dedfryd o garchar fod wedi ei gosod mewn cysylltiad â hi, pe bai'r drosedd wedi ei chyflawni yng Nghymru neu Loegr.
- (6) Yn is-adran (5), mae i "dedfryd o garchar" yr ystyr a roddir i "custodial sentence" gan adran 76 o Ddeddf Pwerau Llysoedd Troseddol (Dedfrydu) 2000 (p.6).

## **121 Atgyfeirio'n uniongyrchol i banel addasrwydd i ymarfer**

Rhaid i berson sy'n rhoi ystyriaeth ragarweiniol i fater ei atgyfeirio'n uniongyrchol i banel addasrwydd i ymarfer—

- os yw'r mater yn ymwneud â cholffarn person cofrestredig am drosedd berthnasol (gweler adran 120(5)), a
- o dan unrhyw amgylchiadau eraill a bennir gan GCC mewn rheolau.

## **122 Hysbysiad: anghymhwysra ar gyfer atgyfeirio ymlaen**

- Mae'r adran hon yn gymwys pan fo person sy'n rhoi ystyriaeth ragarweiniol i fater yn dyfarnu nad yw'r mater yn gymwys i'w atgyfeirio ymlaen o dan adran 120(1).
- Rhaid i GCC roi hysbysiad o'r dyfarniad i'r personau perthnasol, oni bai bod GCC yn meddwl nad yw er budd y cyhoedd i wneud hynny.

- (c) where an allegation has been made anonymously, or by a person who fails to co-operate with the preliminary consideration procedure, the person appointed to give the matter preliminary consideration is unable to verify it.
- (2) In subsection (1) the reference to onward referral is a reference to—
  - (a) referral to a fitness to practise panel under section 121, or
  - (b) referral for investigation under section 125.
- (3) In subsection (1)(a) “relevant date” means—
  - (a) the date of the allegation under section 118(1)(a), or
  - (b) where an allegation has not been made under that section, the date on which SCW first became aware of the matter.
- (4) For the purposes of subsection (1)(a) the exceptions are—
  - (a) the matter relates to a registered person’s conviction for a relevant criminal offence;
  - (b) the matter relates to the inclusion of the registered person in a barred list (as defined in section 117);
  - (c) the matter relates to a determination by a relevant body (as defined by section 117) to the effect that a registered person’s fitness to practise is impaired;
  - (d) the person giving the matter preliminary consideration thinks that it is in the public interest for the matter to be referred for investigation.
- (5) For the purposes of subsection (4)(a) and section 121, a relevant criminal offence is—
  - (a) in the case of a conviction by a court in the United Kingdom, an offence in respect of which a custodial sentence was, or could have been, imposed, or
  - (b) in the case of a conviction by a court elsewhere, an offence in respect of which, had the offence been committed in England and Wales a custodial sentence could have been imposed.
- (6) In subsection (5) “custodial sentence” has the meaning given by section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6).

## **121 Direct referral to a fitness to practise panel**

A person giving preliminary consideration to a matter must refer it directly to a fitness to practise panel—

- (a) if the matter relates to the conviction of a registered person for a relevant criminal offence (see section 120(5)), and
- (b) in such other circumstances as may be specified by SCW in rules.

## **122 Notice: ineligibility for onward referral**

- (1) This section applies where a person giving preliminary consideration to a matter determines that the matter is not eligible for onward referral under section 120(1).
- (2) SCW must give notice of the determination to the relevant persons, unless SCW thinks that it is not in the public interest to do so.

- (3) At ddibenion is-adran (2) "y personau perthnasol" yw —
  - (a) y person cofrestredig y mae'r mater yn ymwneud ag ef, a
  - (b) pan fo'r mater yn destun honiad a grybwyllir yn adran 118(1)(a), y person a wnaeth yr honiad.
- (4) Caiff GCC roi hysbysiad i unrhyw berson arall nad yw mater yn gymwys i'w atgyfeirio ymlaen pan fo wedi ei fodloni ei bod er budd y cyhoedd i wneud hynny.
- (5) Caiff GCC drwy reolau wneud darpariaeth ynghylch—
  - (a) cynnwys hysbysiad o dan yr adran hon, a
  - (b) y weithdrefn ar gyfer rhoi hysbysiad.

### **123 Hysbysiad: atgyfeirio ymlaen**

- (1) Mae'r adran hon yn gymwys, ar ôl i ystyriaeth ragarweiniol o dan adran 119 ddod i ben, pan fo mater yn cael ei atgyfeirio —
  - (a) i banel addasrwydd i ymarfer o dan adran 121, neu
  - (b) ar gyfer ymchwiliad o dan adran 125.
- (2) Rhaid i GCC roi hysbysiad —
  - (a) i'r person cofrestredig y mae'r mater yn ymwneud ag ef;
  - (b) pan fo'r mater yn destun honiad a grybwyllir yn adran 118(1)(a), i'r person a wnaeth yr honiad;
  - (c) i bob person y cyflogir y person cofrestredig fel gweithiwr gofal cymdeithasol ganddo, hyd y gŵyr GCC;
  - (d) i bob person sydd, hyd y gŵyr GCC, â threfniant â'r person cofrestredig i'r person cofrestredig ddarparu gwasanaethau i drydydd parti yn rhinwedd ei swydd fel gweithiwr gofal cymdeithasol;
  - (e) i unrhyw bersonau eraill a ragnodir.
- (3) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch rhoi hysbysiad o dan is-adran (2).
- (4) Caiff y rheolau, yn benodol, wneud darpariaeth ynghylch—
  - (a) cynnwys hysbysiad;
  - (b) y weithdrefn ar gyfer rhoi hysbysiad;
  - (c) y cyfnod y mae rhaid rhoi hysbysiad ynddo.

### **124 Hysbysiad: atgyfeirio i banel gorchmynion interim**

Pan fo person yn atgyfeirio mater i banel gorchmynion interim o dan adran 118(2)(b) neu 119(2), o ran GCC —

- (a) rhaid iddo roi hysbysiad o'r atgyfeirio—
  - (i) i'r person cofrestredig y mae'r mater yn ymwneud ag ef, a
  - (ii) pan fo'r mater yn destun honiad a grybwyllir yn adran 118(1)(a), i'r person a wnaeth yr honiad, a

- (3) For the purposes of subsection (2) “the relevant persons” are –
  - (a) the registered person to whom the matter relates, and
  - (b) where the matter was the subject of an allegation mentioned in section 118(1)(a), the person who made the allegation.
- (4) SCW may give notice to any other person that a matter is not eligible for onward referral where it is satisfied that it is in the public interest to do so.
- (5) SCW may by rules make provision about –
  - (a) the content of a notice under this section, and
  - (b) the procedure for giving notice.

### **123 Notice: onward referral**

- (1) This section applies where, on conclusion of a preliminary consideration under section 119, a matter is referred –
  - (a) to a fitness to practise panel under section 121, or
  - (b) for investigation under section 125.
- (2) SCW must give notice to –
  - (a) the registered person to whom the matter relates;
  - (b) where the matter was the subject of an allegation mentioned in section 118(1)(a), the person who made the allegation;
  - (c) each person by whom, to the knowledge of SCW, the registered person is employed as a social care worker;
  - (d) each person who, to the knowledge of SCW, has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker;
  - (e) such other persons as may be prescribed.
- (3) SCW must by rules make provision about giving notice under subsection (2).
- (4) The rules may, in particular, make provision about –
  - (a) the content of a notice;
  - (b) the procedure for giving notice;
  - (c) the period within which notice must be given.

### **124 Notice: referral to an interim orders panel**

Where a person refers a matter to an interim orders panel under section 118(2)(b) or 119(2) SCW –

- (a) must give notice of the referral to –
  - (i) the registered person to whom the matter relates, and
  - (ii) where the matter was the subject of an allegation mentioned in section 118(1)(a), the person who made the allegation, and

- (b) caiff roi hysbysiad o'r atgyfeirio i unrhyw berson arall os yw GCC yn meddwl ei bod er budd y cyhoedd i wneud hynny.

*Ymchwilio*

**125 Dyletswydd i ymchwilio**

- (1) Rhaid i GCC ymchwilio, neu wneud trefniadau ar gyfer ymchwilio, i fater a atgyfeirir o dan adran 119 mewn cysylltiad ag addasrwydd person cofrestredig i ymarfer.
- (2) Caiff y person sy'n cynnal ymchwiliad o dan yr adran hon atgyfeirio'r mater i banel gorchmynion interim ar unrhyw adeg yn ystod yr ymchwiliad.
- (3) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch y trefniadau ar gyfer ymchwiliadau o dan yr adran hon.
- (4) Caiff rheolau a wneir o dan is-adran (3), yn benodol, wneud darpariaeth—
  - (a) i'r person cofrestredig gyflwyno sylwadau i'r person sy'n cynnal yr ymchwiliad;
  - (b) i aelod o staff GCC gynnal ymchwiliadau;
  - (c) ar gyfer penodi un neu ragor o unigolion at ddiben cynnal ymchwiliad;
  - (d) ar gyfer penodi personau i roi cynhorthwy mewn perthynas ag ymchwiliad.
- (5) Ond ni chaiff rheolau a wneir o dan is-adran (3) ddarparu i'r canlynol gynnal ymchwiliad—
  - (a) person sy'n aelod o—
    - (i) GCC,
    - (ii) y Cyngor Proffesiynau Iechyd a Gofal,
    - (iii) Cyngor Gwasanaethau Cymdeithasol yr Alban, neu
    - (iv) Cyngor Gofal Cymdeithasol Gogledd Iwerddon;
  - (b) person sy'n aelod o banel addasrwydd i ymarfer;
  - (c) person sy'n aelod o banel gorchmynion interim;
  - (d) person rhagnodedig.

**126 Pwerau yn dilyn ymchwiliad**

- (1) Mae'r adran hon yn gymwys pan fo'r ymchwiliad i fater sy'n ymwneud ag addasrwydd person cofrestredig i ymarfer wedi dod i ben.
- (2) Rhaid i GCC atgyfeirio'r mater i banel addasrwydd i ymarfer os yw wedi ei fodloni—
  - (a) bod rhagolwg realistig i'r panel ddod i'r casgliad bod amhariad ar addasrwydd y person cofrestredig i ymarfer, a
  - (b) ei bod er budd y cyhoedd i atgyfeirio'r mater.
- (3) Pan na fo'r mater yn cael ei atgyfeirio i banel addasrwydd i ymarfer, caiff GCC—
  - (a) penderfynu peidio â chymryd unrhyw gamau pellach mewn cysylltiad â'r person cofrestredig;

- (b) may give notice of the referral to any other person if SCW thinks it is in the public interest to do so.

### *Investigation*

#### **125 Duty to investigate**

- (1) SCW must investigate, or make arrangements for the investigation of, a matter referred under section 119 in respect of a registered person's fitness to practise.
- (2) The person conducting an investigation under this section may, at any stage during the investigation, refer the matter to an interim orders panel.
- (3) SCW must by rules make provision about the arrangements for investigations under this section.
- (4) Rules made under subsection (3) may, in particular, make provision for –
  - (a) the registered person to make representations to the person conducting the investigation;
  - (b) investigations to be carried out by a member of SCW's staff;
  - (c) the appointment of one or more individuals for the purpose of conducting an investigation;
  - (d) the appointment of persons to provide assistance in relation to an investigation.
- (5) But rules made under subsection (3) may not provide for an investigation to be carried out by –
  - (a) a person who is a member of –
    - (i) SCW,
    - (ii) the Health and Care Professions Council,
    - (iii) the Scottish Social Services Council, or
    - (iv) the Northern Ireland Social Care Council;
  - (b) a person who is a member of a fitness to practise panel;
  - (c) a person who is a member of an interim orders panel;
  - (d) a prescribed person.

#### **126 Powers following an investigation**

- (1) This section applies where the investigation of a matter relating to a registered person's fitness to practise has been concluded.
- (2) SCW must refer the matter to a fitness to practise panel if it is satisfied that –
  - (a) there is a realistic prospect of the panel finding that the registered person's fitness to practise is impaired, and
  - (b) it is in the public interest to refer the matter.
- (3) Where the matter is not referred to a fitness to practise panel, SCW may –
  - (a) decide to take no further action in respect of the registered person;

- (b) rhoi cyngor i'r person cofrestredig, neu i unrhyw berson arall sy'n ymwneud â'r ymchwiliad, mewn cysylltiad ag unrhyw fater sy'n gysylltiedig â'r ymchwiliad;
- (c) dyroddi rhybudd i'r person cofrestredig mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol;
- (d) cytuno â'r person cofrestredig y bydd yn cydymffurfio ag unrhyw ymgymeriadau sy'n briodol ym marn GCC;
- (e) caniatáu cais o dan adran 92 gan y person cofrestredig i'w gofnod yn y gofrestr gael ei ddileu drwy gytundeb.

### **127 Hysbysiad: atgyfeirio neu waredu**

- (1) Rhaid i GCC roi hysbysiad i'r personau a restrir yn is-adran (2) –
  - (a) bod mater wedi ei atgyfeirio i banel gorchmynion interim o dan adran 125(2);
  - (b) bod mater wedi ei atgyfeirio i banel addasrwydd i ymarfer o dan adran 126(2);
  - (c) o'r ffordd y mae'r mater wedi ei waredu o dan adran 126(3).
- (2) Y personau yw –
  - (a) y person cofrestredig y mae'r mater yn ymwneud ag ef, a
  - (b) pan fo'r mater yn destun honiad a grybwyllir yn adran 118(1)(a), y person a wnaeth yr honiad.
- (3) Caiff GCC roi hysbysiad i unrhyw berson arall o'r atgyfeiriad neu'r gwarediad o fater o dan adran 126 os yw wedi ei fodloni ei bod er budd y cyhoedd i wneud hynny.
- (4) Rhaid i hysbysiad o dan yr adran hon roi'r rhesymau dros yr atgyfeiriad.

### **128 Rhybuddion**

- (1) Pan fo GCC yn bwriadu dyroddi rhybudd i berson cofrestredig, rhaid i GCC –
  - (a) hysbysu'r person cofrestredig am ei fwriad, a
  - (b) hysbysu'r person hwnnw am yr hawl i ofyn am wrandawriad llafar at ddiben dyfarnu pa un ai i roi rhybudd ai peidio.
- (2) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch –
  - (a) y cyfnod y caniateir i gais am wrandawriad llafar gael ei wneud ynddo;
  - (b) y trefniadau a'r weithdrefn ar gyfer gwrandawriad llafar.
- (3) Rhaid i GCC ganiatáu cais am wrandawriad llafar os gwneir y cais yn unol â gofynion rheolau a wneir o dan is-adran (2).

### **129 Ymgymeriadau**

- (1) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch cytuno ar ymgymeriadau o dan adran 126(3)(d).
- (2) Caiff y rheolau, yn benodol, wneud darpariaeth ynghylch –
  - (a) y weithdrefn sydd i'w dilyn ar gyfer cytuno ar ymgymeriadau;
  - (b) y weithdrefn sydd i'w dilyn os caiff ymgymeriad ei dorri;

- (b) give advice to the registered person, or to any other person involved in the investigation, in respect of any matter related to the investigation;
- (c) issue a warning to the registered person in respect of future conduct or performance;
- (d) agree with the registered person that he or she will comply with such undertakings as SCW thinks appropriate;
- (e) grant an application under section 92 by the registered person for his or her entry in the register to be removed by agreement.

**127 Notice: referral or disposal**

- (1) SCW must give notice to the persons listed in subsection (2) of—
  - (a) the referral of a matter to an interim orders panel under section 125(2);
  - (b) the referral of a matter to a fitness to practise panel under section 126(2);
  - (c) the way in which the matter has been disposed of under section 126(3).
- (2) The persons are—
  - (a) the registered person to whom the matter relates, and
  - (b) where the matter was the subject of an allegation mentioned in section 118(1)(a), the person who made the allegation.
- (3) SCW may give notice to any other person of the referral or disposal of a matter under section 126 if satisfied that it is in the public interest to do so.
- (4) A notice under this section must give the reasons for the referral.

**128 Warnings**

- (1) Where SCW is proposing to issue a warning to a registered person, SCW must—
  - (a) notify the registered person of its intention, and
  - (b) notify that person of the right to request an oral hearing for the purpose of determining whether or not to give a warning.
- (2) SCW must by rules make provision about—
  - (a) the period within which a request for an oral hearing may be made;
  - (b) the arrangements and procedure for an oral hearing.
- (3) SCW must grant a request for an oral hearing if the request is made in accordance with the requirements of rules made under subsection (2).

**129 Undertakings**

- (1) SCW must by rules make provision about the agreement of undertakings under section 126(3)(d).
- (2) The rules may, in particular, make provision about—
  - (a) the procedure to be followed for the agreement of undertakings;
  - (b) the procedure to be followed in the event of a breach of an undertaking;



- (c) canlyniadau torri ymgymeriad;
- (d) adolygiad cyfnodol o ofyniad i gydymffurfio ag ymgymeriad.

### 130 Cyfryngu

- (1) Caiff Gweinidogion Cymru drwy reoliadau ddarparu, neu awdurdodi GCC drwy reolau i ddarparu, ar gyfer trefniadau i gynnal cyfryngu gydag unrhyw berson cofrestredig yr atgyfeirir mater ar gyfer ymchwiliad mewn cysylltiad ag ef o dan adran 125.
- (2) Caiff y rheoliadau wneud darpariaeth, neu awdurdodi GCC drwy reolau i wneud darpariaeth, ynghylch—
  - (a) yr amgylchiadau pan ganiateir cynnal cyfryngu, a
  - (b) y trefniadau ar gyfer cynnal cyfryngu.

#### *Adolygu*

### 131 Adolygu penderfyniadau gan GCC

- (1) Rhaid i GCC adolygu penderfyniad y mae is-adran (2) yn gymwys iddo—
  - (a) os yw'n meddwl y gall fod diffyg perthnasol ar y penderfyniad, neu
  - (b) os yw'n meddwl y gall penderfyniad gwahanol fod wedi ei wneud ar sail gwybodaeth nad oedd ar gael pan wnaed y penderfyniad.
- (2) Mae'r is-adran hon yn gymwys i'r penderfyniadau a ganlyn—
  - (a) penderfyniad i beidio ag atgyfeirio mater i banel addasrwydd i ymarfer o dan adran 121 neu 126(2),
  - (b) penderfyniad i beidio ag atgyfeirio mater ar gyfer ymchwiliad o dan adran 125,
  - (c) penderfyniad i waredu achos ar ôl ymchwiliad o dan adran 126(3), a
  - (d) penderfyniad i atgyfeirio achos ar gyfer cyfryngu o dan reoliadau o dan adran 130.
- (3) Ni chaiff GCC adolygu penderfyniad ar ôl diwedd y cyfnod o 2 flynedd sy'n dechrau â'r dyddiad y gwnaed y penderfyniad oni bai bod GCC yn meddwl ei bod er budd y cyhoedd i wneud hynny.
- (4) Pan fo GCC yn penderfynu adolygu penderfyniad, rhaid iddo roi hysbysiad i'r partïon a chanddynt fuddiant—
  - (a) o'r penderfyniad i gynnal adolygiad, a
  - (b) o'r rhesymau dros gynnal adolygiad.
- (5) Yn yr adran hon, ystyr "partïon a chanddynt fuddiant" yw—
  - (a) y person cofrestredig y gwnaed y penderfyniad sy'n cael ei adolygu mewn cysylltiad ag ef,
  - (b) y person (os oes un) a wnaeth honiad y gwnaed y penderfyniad mewn cysylltiad ag ef, ac
  - (c) unrhyw berson arall y mae GCC yn meddwl bod ganddo fuddiant yn y penderfyniad.

- (c) the consequences of a breach of an undertaking;
- (d) periodic review of a requirement to comply with an undertaking.

### 130 Mediation

- (1) The Welsh Ministers may by regulations provide, or authorise SCW by rules to provide, for arrangements for mediation to be undertaken with any registered person in respect of whom a matter is referred for investigation under section 125.
- (2) The regulations may make provision about, or authorise SCW by rules to make provision about—
  - (a) the circumstances in which mediation may be undertaken, and
  - (b) the arrangements for undertaking mediation.

#### *Review*

### 131 Review of decisions by SCW

- (1) SCW must review a decision to which subsection (2) applies if—
  - (a) it thinks that the decision may be materially flawed, or
  - (b) it thinks that a different decision may have been made on the basis of information that was not available when the decision was made.
- (2) This subsection applies to the following decisions—
  - (a) a decision not to refer a matter to a fitness to practise panel under section 121 or 126(2),
  - (b) a decision not to refer a matter for investigation under section 125,
  - (c) a decision to dispose of a case after investigation under section 126(3), and
  - (d) a decision to refer a case for mediation under regulations under section 130.
- (3) SCW may not review a decision after the end of the period of 2 years beginning with the date on which the decision was made unless SCW thinks that it is in the public interest to do so.
- (4) Where SCW decides to review a decision, it must give notice to the interested parties of—
  - (a) the decision to carry out a review, and
  - (b) the reasons for carrying out a review.
- (5) In this section “interested parties” means—
  - (a) the registered person in respect of whom the decision under review was made,
  - (b) the person (if any) who made an allegation in respect of which the decision was made, and
  - (c) any other person who SCW thinks has an interest in the decision.

- (6) Yn sgil adolygiad o dan yr adran hon, caiff GCC –
  - (a) rhoi yn lle'r penderfyniad sy'n cael ei adolygu benderfyniad arall o fath a allai fod wedi ei wneud gan y penderfynwr gwreiddiol,
  - (b) atgyfeirio'r mater ar gyfer ymchwiliad o dan adran 125, neu
  - (c) dyfarnu bod y penderfyniad yn sefyll.
- (7) Rhaid i GCC roi hysbysiad o ganlyniad yr adolygiad i'r partïon a chanddynt fuddiant.
- (8) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch y trefniadau ar gyfer cynnal adolygiad o dan yr adran hon.
- (9) Caiff rheolau a wneir o dan is-adran (8), yn benodol, wneud darpariaeth ynghylch –
  - (a) y weithdrefn sydd i'w dilyn wrth gynnal adolygiad (gan gynnwys darpariaeth i'r partïon a chanddynt fuddiant gyflwyno sylwadau i GCC);
  - (b) cynnwys ac amseriad hysbysiadau sydd i'w rhoi o dan yr adran hon.

### **132 Canslo atgyfeiriad i banel addasrwydd i ymarfer**

- (1) Mae'r adran hon yn gymwys pan fo mater wedi ei atgyfeirio i banel addasrwydd i ymarfer o dan adran 121 neu 126(2) neu i banel gorchmynion interim o dan adran 118(2)(b), 119(2) neu 125(2) ac –
  - (a) nad yw GCC bellach yn meddwl bod rhagolwg realistig y bydd y panel yn dod i'r casgliad bod amhariad ar addasrwydd y person cofrestredig i ymarfer, neu
  - (b) bod GCC fel arall yn meddwl nad yw bellach yn briodol i'r person cofrestredig fod yn ddarostyngedig i achos addasrwydd i ymarfer o dan y Rhan hon.
- (2) Caiff GCC –
  - (a) dyfarnu na chaiff y panel addasrwydd i ymarfer neu'r panel gorchmynion interim ddechrau achos neu barhau ag achos mewn cysylltiad â'r mater, neu
  - (b) dyfarnu na chaiff yr achos addasrwydd i ymarfer ddechrau neu barhau ond mewn cysylltiad ag unrhyw fanylion y mater y mae GCC yn eu pennu.
- (3) Pan fo GCC yn gwneud dyfarniad o dan is-adran (2), caiff atgyfeirio'r mater, neu fanylion penodedig y mater, ar gyfer ymchwiliad o dan adran 125.
- (4) Rhaid i GCC roi hysbysiad o ddyfarniad o dan is-adran (2) –
  - (a) i'r person cofrestredig y mae'r mater yn ymwneud ag ef,
  - (b) pan fo honiad wedi ei wneud, i'r person a wnaeth yr honiad, ac
  - (c) i unrhyw berson y rhoddwyd hysbysiad o'r atgyfeirio iddo o dan adran 123(2)(c),
  - (d) neu (e) neu 127(3).
- (5) Rhaid i'r hysbysiad gynnwys y rhesymau dros y dyfarniad.
- (6) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch y weithdrefn ar gyfer arfer ei swyddogaethau o dan yr adran hon; yn benodol, darpariaeth ynghylch –
  - (a) y weithdrefn sydd i'w dilyn wrth wneud dyfarniad o dan is-adran (2), a
  - (b) cynnwys ac amseriad hysbysiad o dan is-adran (4).

- (6) On a review under this section, SCW may –
  - (a) substitute for the decision under review another decision of a kind that could have been made by the original decision maker,
  - (b) refer the matter for investigation under section 125, or
  - (c) determine that the decision stands.
- (7) SCW must give notice of the outcome of the review to the interested parties.
- (8) SCW must by rules make provision about the arrangements for carrying out a review under this section.
- (9) Rules made under subsection (8) may, in particular, make provision about –
  - (a) the procedure to be followed in carrying out a review (including provision for the interested parties to make representations to SCW);
  - (b) the content and timing of notices to be given under this section.

### **132 Cancellation of referral to fitness to practise panel**

- (1) This section applies where a matter has been referred to a fitness to practise panel under section 121 or 126(2) or to an interim orders panel under section 118(2)(b), 119(2) or 125(2) and –
  - (a) SCW no longer thinks that there is a realistic prospect that the panel will find that the registered person's fitness to practise is impaired, or
  - (b) SCW otherwise thinks that it is no longer appropriate for the registered person to be subject to fitness to practise proceedings under this Part.
- (2) SCW may –
  - (a) determine that the fitness to practise panel or interim orders panel may not commence or continue proceedings in respect of the matter, or
  - (b) determine that the fitness to practise proceedings may only commence or continue in respect of such particulars of the matter as SCW may specify.
- (3) Where SCW makes a determination under subsection (2) it may refer the matter, or specified particulars of the matter, for investigation under section 125.
- (4) SCW must give notice of a determination under subsection (2) to –
  - (a) the registered person to whom the matter relates,
  - (b) where an allegation has been made, the person who made the allegation, and
  - (c) any person to whom notice of the referral was given under section 123(2)(c), (d) or (e) or 127(3).
- (5) The notice must include the reasons for the determination.
- (6) SCW must by rules make provision about the procedure for exercising its functions under this section; in particular, provision about –
  - (a) the procedure to be followed in making a determination under subsection (2), and
  - (b) the content and timing of a notice under subsection (4).

**133 Atgyfeirio gan GCC ar gyfer achos adolygu**

- (1) Mae'r adran hon yn gymwys pan fo unrhyw un neu ragor o'r canlynol yn cael effaith mewn perthynas â pherson cofrestredig—
  - (a) ymgymeriadau y cytunir arnynt rhwng y person a GCC o dan adran 126(3)(d);
  - (b) ymgymeriadau y cytunir arnynt rhwng y person a phanel addasrwydd i ymarfer o dan adran 136(1), 152(5) neu (6), 153(4), 154(4) neu 155(7);
  - (c) gorchymyn cofrestru amodol a wneir (neu a gadarnheir neu a amrywir) o dan adran 138(7), 152(8)(c), 153(6) neu (7), 154(8)(c) neu 155(10)(c);
  - (d) gorchymyn atal dros dro a wneir (neu a gadarnheir neu a amrywir) o dan adran 138(8), 152(8)(d), 153(9)(c) neu 154(6) neu (7).
- (2) Os yw GCC yn meddwl ar unrhyw adeg ei bod yn ddymunol y dylai panel addasrwydd i ymarfer adolygu addasrwydd y person cofrestredig i ymarfer, caiff GCC atgyfeirio'r achos i'r panel i gynnal adolygiad (gweler Pennod 5).
- (3) Ond rhaid i GCC atgyfeirio achos i banel addasrwydd i ymarfer i gynnal adolygiad o addasrwydd i ymarfer person cofrestredig os oes gan GCC reswm dros gredu—
  - (a) pan fo'r person wedi cytuno ar ymgymeriad o'r math a grybwyllir yn is-adran (1)(a) neu (b), fod y person wedi torri'r ymgymeriad, neu
  - (b) pan fo'r person yn ddarostyngedig i orchymyn cofrestru amodol o'r math a grybwyllir yn is-adran (1)(c), fod y person wedi torri unrhyw amod o'r gorchymyn.

**PENNOD 3****GWAREDU ACHOSION ADDASRWYDD I YMARFER****134 Cwmpas Pennod 3 a'i dehongli**

- (1) Mae'r Bennod hon yn gymwys mewn cysylltiad â mater sydd wedi ei atgyfeirio i banel addasrwydd i ymarfer.
- (2) Ond nid yw'n gymwys mewn cysylltiad ag achosion adolygu o dan adran 151 (ac eithrio i'r graddau y caniateir i reolau gael eu gwneud o dan adran 136(4) neu 137(6) ynghylch ymgymeriadau y cytunir arnynt, a gadarnheir neu a amrywir, neu rybuddion a roddir, yn sgil adolygiad a gynhelir o dan adran 151).
- (3) Nid yw ychwaith yn gymwys mewn cysylltiad ag achosion gerbron panel addasrwydd i ymarfer, na'r rhan honno o achosion gerbron panel addasrwydd i ymarfer, pan fo'r panel hwnnw yn ystyried—
  - (a) pa un ai i wneud gorchymyn interim o dan adran 144, neu
  - (b) adolygu gorchymyn interim o dan adran 146.
- (4) Yn y Bennod hon, mae cyfeiriad at berson cofrestredig yn gyfeiriad at y person cofrestredig y mae'r atgyfeiriad i'r panel addasrwydd i ymarfer wedi ei wneud mewn cysylltiad ag ef.

**133 Referral by SCW for review proceedings**

- (1) This section applies where, in relation to a registered person, any of the following have effect—
  - (a) undertakings agreed between the person and SCW under section 126(3)(d);
  - (b) undertakings agreed between the person and a fitness to practise panel under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7);
  - (c) a conditional registration order made (or confirmed or varied) under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c);
  - (d) a suspension order made (or confirmed or varied) under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7).
- (2) If SCW thinks at any time that it is desirable that a fitness to practise panel should review the registered person's fitness to practise, SCW may refer the case to the panel to carry out a review (see Chapter 5).
- (3) But SCW must refer a case to a fitness to practise panel to carry out a review of a registered person's fitness to practise if SCW has reason to believe that—
  - (a) where the person has agreed an undertaking of the kind mentioned in subsection (1)(a) or (b), that the person has breached the undertaking, or
  - (b) where the person is subject to a conditional registration order of the kind mentioned in subsection (1)(c), that the person has breached any condition of the order.

**CHAPTER 3**

**DISPOSAL OF FITNESS TO PRACTISE CASES**

**134 Scope and interpretation of Chapter 3**

- (1) This Chapter applies in respect of a matter which has been referred to a fitness to practise panel.
- (2) But it does not apply in respect of review proceedings under section 151 (except to the extent that rules may be made under section 136(4) or 137(6) about undertakings agreed, confirmed or varied, or warnings given, on a review carried out under section 151).
- (3) Nor does it apply in respect of proceedings before a fitness to practise panel, or that part of proceedings before a fitness to practise panel, in which that panel is considering—
  - (a) whether to make an interim order under section 144, or
  - (b) the review of an interim order under section 146.
- (4) In this Chapter a reference to a registered person is a reference to the registered person in respect of whom the referral to the fitness to practise panel has been made.

**135 Dileu o'r gofrestr ar sail gydsyniol**

- (1) Mae is-adran (2) yn gymwys –
  - (a) pan fo person cofrestredig wedi gwneud cais o dan adran 92 i'r cofnod sy'n ymwneud â'r person hwnnw gael ei ddileu o'r gofrestr drwy gytundeb, a
  - (b) pan fo'r cais hwnnw wedi ei atgyfeirio i banel addasrwydd i ymarfer yn rhinwedd rheolau a wneir o dan adran 92(3).
- (2) Ni chaiff y panel addasrwydd i ymarfer wneud gorchymyn i'r cofnod sy'n ymwneud â'r person cofrestredig gael ei ddileu o'r gofrestr drwy gytundeb ond os yw'r person wedi cytuno ar ddatganiad o ffeithiau sy'n ymwneud â'r mater y gwnaed yr atgyfeiriad a grybwyllir yn is-adran (1) mewn cysylltiad ag ef.
- (3) Os gwneir gorchymyn ar gyfer dileu drwy gytundeb, caiff GCC –
  - (a) cyhoeddi'r datganiad o ffeithiau y cytunir arnynt yn y modd sy'n briodol ym marn GCC, a
  - (b) datgelu'r datganiad i unrhyw berson os yw GCC yn meddwl ei bod er budd y cyhoedd i wneud hynny.

**136 Gwaredu cydsyniol arall gan banel addasrwydd i ymarfer: ymgymeriadau**

- (1) Caiff panel addasrwydd i ymarfer gytuno ar ymgymeriadau â'r person cofrestredig os yw'r person yn cyfaddef bod amhariad ar ei addasrwydd i ymarfer.
- (2) Rhaid i GCC ddatgelu manylion yr ymgymeriadau i unrhyw berson –
  - (a) y cyflogir y person cofrestredig fel gweithiwr gofal cymdeithasol ganddo, hyd y gŵyr GCC;
  - (b) sydd, hyd y gŵyr GCC, â threfniant â'r person cofrestredig i'r person cofrestredig ddarparu gwasanaethau i drydydd parti yn rhinwedd ei swydd fel gweithiwr gofal cymdeithasol;
  - (c) y mae'r person cofrestredig, hyd y gŵyr GCC, yn ceisio cyflogaeth o'r fath neu drefniant o'r fath ganddo;
  - (d) a ragnodir.
- (3) Ond ni chaiff GCC ddatgelu i unrhyw berson fanylion unrhyw ymgymeriad nad yw ond yn ymwneud ag iechyd corfforol neu iechyd meddwl y person cofrestredig.
- (4) Caiff GCC drwy reolau wneud darpariaeth ynghylch ymgymeriadau y cytunir arnynt â phanel addasrwydd i ymarfer o dan yr adran hon; a chaiff y rheolau, yn benodol, wneud darpariaeth ynghylch y materion a bennir yn adran 129(2) (y weithdrefn sydd i'w dilyn ar gyfer cytuno ar ymgymeriadau etc.).
- (5) Caiff rheolau o dan is-adran (4) gynnwys darpariaeth mewn cysylltiad ag ymgymeriadau y cytunir arnynt, a gadarnheir neu a amrywir yn sgil adolygiad o dan adran 138(4), 152(5) neu (6), 153(4), 154(4) neu 155(7).

**137 Gwarediadau gan banel addasrwydd i ymarfer: canfyddiad o ddim amhariad**

- (1) Mae'r adran hon yn gymwys pan fo panel addasrwydd i ymarfer wedi dyfarnu nad oes amhariad ar addasrwydd person cofrestredig i ymarfer.

**135 Removal from register on consensual basis**

- (1) Subsection (2) applies where –
  - (a) a registered person has applied under section 92 for the entry relating to that person to be removed from the register by agreement, and
  - (b) that application has been referred to a fitness to practise panel by virtue of rules made under section 92(3).
- (2) The fitness to practise panel may make an order for the entry relating to the registered person to be removed from the register by agreement only if the person has agreed to a statement of facts relating to the matter in respect of which the referral mentioned in subsection (1) was made.
- (3) If an order for removal by agreement is made, SCW –
  - (a) may publish the statement of agreed facts in such manner as it thinks appropriate, and
  - (b) may disclose the statement to any person if SCW thinks it is in the public interest to do so.

**136 Other consensual disposal by fitness to practise panel: undertakings**

- (1) A fitness to practise panel may agree undertakings with the registered person if the person admits that his or her fitness to practise is impaired.
- (2) SCW must disclose details of the undertakings to any person –
  - (a) by whom, to the knowledge of SCW, the registered person is employed as a social care worker;
  - (b) who, to the knowledge of SCW, has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker;
  - (c) from whom, to the knowledge of SCW, the registered person is seeking such employment or such an arrangement;
  - (d) as may be prescribed.
- (3) But SCW may not disclose to any person details of any undertaking which relates solely to the registered person's physical or mental health.
- (4) SCW may by rules make provision about undertakings agreed with a fitness to practise panel under this section; and the rules may, in particular, make provision about the matters specified in section 129(2) (procedure to be followed for agreement of undertakings etc.).
- (5) Rules under subsection (4) may include provision in respect of undertakings agreed, confirmed or varied on a review under section 138(4), 152(5) or (6), 153(4), 154(4) or 155(7).

**137 Disposals by fitness to practise panel: finding of no impairment**

- (1) This section applies where a fitness to practise panel has determined that a registered person's fitness to practise is not impaired.



- (2) Caiff y panel benderfynu peidio â chymryd unrhyw gamau pellach mewn cysylltiad â'r person hwnnw.
- (3) Neu, caiff y panel wneud y naill neu'r llall neu'r ddau o'r pethau a ganlyn—
  - (a) gwaredu'r mater yn y ffordd a bennir yn is-adran (4);
  - (b) gwaredu'r mater yn y ffordd a bennir yn is-adran (5).
- (4) Caiff y panel roi cyngor ynghylch unrhyw fater sy'n gysylltiedig â'r honiad o dan adran 118(1)(a) neu'r wybodaeth a arweiniodd at yr achos o dan adran 118(1)(b) (yn ôl y digwydd)—
  - (a) i'r person cofrestredig, a
  - (b) i unrhyw berson arall sy'n ymwneud â'r achos.
- (5) Caiff y panel roi rhybudd i'r person cofrestredig mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol.
- (6) Caiff GCC drwy reolau wneud darpariaeth ynghylch y weithdrefn ar gyfer rhoi rhybudd o dan yr adran hon.
- (7) Caiff rheolau o dan is-adran (6), yn benodol, wneud darpariaeth—
  - (a) sy'n ei gwneud yn ofynnol rhoi hysbysiad o rybudd arfaethedig i'r person cofrestredig, a
  - (b) sy'n caniatáu i'r person cofrestredig gyflwyno sylwadau mewn cysylltiad â'r rhybudd arfaethedig.
- (8) Caiff rheolau o dan is-adran (6) hefyd gynnwys darpariaeth mewn cysylltiad â rhybudd a roddir o dan adran 138(6) neu yn sgil adolygiad o dan adran 152(3)(b)(ii), 153(3)(b)(ii), 154(3)(b)(ii) neu 155(6)(b)(ii).

### **138 Gwarediadau gan banel addasrwydd i ymarfer: canfyddiad o amhariad**

- (1) Mae'r adran hon yn gymwys pan fo panel addasrwydd i ymarfer wedi dyfarnu bod amhariad ar addasrwydd person cofrestredig i ymarfer.
- (2) Rhaid i'r panel waredu'r mater mewn un o'r ffyrdd a grybwyllir yn is-adrannau (3) i (9).
- (3) Caiff y panel wneud gorchymyn o dan adran 135(2) ar gyfer dileu cofnod y person cofrestredig o'r gofrestr drwy gytundeb.
- (4) Caiff y panel gytuno ar ymgymeriadau â'r person cofrestredig; yn yr achos hwnnw, mae adran 136(2) a (3) yn gymwys mewn cysylltiad ag ymgymeriadau o'r fath.
- (5) Caiff y panel benderfynu peidio â chymryd unrhyw gamau pellach mewn cysylltiad â'r person cofrestredig.
- (6) Caiff y panel roi rhybudd i'r person cofrestredig mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol.
- (7) Caiff y panel wneud gorchymyn cofrestru amodol, sef gorchymyn sy'n gosod amodau ar gofrestriad y person.
- (8) Caiff y panel wneud gorchymyn atal dros dro, sef gorchymyn sy'n atal cofrestriad y person cofrestredig dros dro.
- (9) Caiff y panel wneud gorchymyn dileu, sef gorchymyn ar gyfer dileu'r cofnod sy'n ymwneud â'r person cofrestredig yn y gofrestr.

- (2) The panel may decide to take no further action in respect of that person.
- (3) Or, the panel may do either or both of the following things—
  - (a) dispose of the matter in the way specified in subsection (4);
  - (b) dispose of the matter in the way specified in subsection (5).
- (4) The panel may give advice on any matter related to the allegation under section 118(1)(a) or the information which gave rise to the proceedings under section 118(1)(b) (as the case may be)—
  - (a) to the registered person, and
  - (b) to any other person involved in the proceedings.
- (5) The panel may give a warning to the registered person in respect of future conduct or performance.
- (6) SCW may by rules make provision about the procedure for giving a warning under this section.
- (7) Rules under subsection (6) may, in particular, make provision—
  - (a) requiring notice of a proposed warning to be given to the registered person, and
  - (b) allowing the registered person to make representations in respect of the proposed warning.
- (8) Rules under subsection (6) may also include provision in respect of a warning given under section 138(6) or on a review under section 152(3)(b)(ii), 153(3)(b)(ii), 154(3)(b)(ii) or 155(6)(b)(ii).

### **138 Disposals by fitness to practise panel: finding of impairment**

- (1) This section applies where a fitness to practise panel has determined that a registered person's fitness to practise is impaired.
- (2) The panel must dispose of the matter in one of the ways mentioned in subsections (3) to (9).
- (3) The panel may make an order under section 135(2) for removal of the registered person's entry from the register by agreement.
- (4) The panel may agree undertakings with the registered person; in which case, section 136(2) and (3) apply in respect of such undertakings.
- (5) The panel may decide to take no further action in respect of the registered person.
- (6) The panel may give a warning to the registered person in respect of future conduct or performance.
- (7) The panel may make a conditional registration order, which is an order imposing conditions on the person's registration.
- (8) The panel may make a suspension order, which is an order suspending the registered person's registration.
- (9) The panel may make a removal order, which is an order for the removal of the entry relating to the registered person in the register.

- (10) Ond ni chaiff y panel wneud gorchymyn dileu os yr unig sail y mae wedi dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer arni yw iechyd corfforol neu iechyd meddwl andwyol.

**139 Gwarediadau: darpariaeth bellach ynghylch gorchymynion cofrestru amodol a gorchymynion atal dros dro**

- (1) Rhaid i orchymyn cofrestru amodol bennu –
- (a) yr amodau y mae rhaid i'r person y mae'r gorchymyn yn ymwneud ag ef gydymffurfio â hwy, a
  - (b) y cyfnod y mae'r gorchymyn i gael effaith ar ei gyfer, na chaniateir iddo fod yn hwy na 3 blynedd; ond gweler adran 153 ynglŷn ag estyniadau o'r cyfnod hwnnw yn sgil adolygiad.
- (2) Caiff gorchymyn cofrestru amodol bennu –
- (a) bod rhaid adolygu'r gorchymyn yn unol â'r trefniadau a bennir yn y gorchymyn;
  - (b) amodau gwahanol sy'n cael effaith ar gyfer cyfnodau gwahanol; ond mae hyn yn ddarostyngedig i'r terfyn a grybwyllir yn is-adran (1)(b).
- (3) Rhaid i orchymyn atal dros dro bennu'r cyfnod y mae'r gorchymyn i gael effaith ar ei gyfer, na chaniateir iddo fod yn hwy na blwyddyn; ond gweler adran 154 ynglŷn ag estyniadau o'r cyfnod hwnnw yn sgil adolygiad.
- (4) Caiff gorchymyn atal dros dro bennu bod rhaid adolygu'r gorchymyn yn unol â'r trefniadau a bennir yn y gorchymyn.

**140 Gorchymynion effaith ar unwaith ar gyfer cofrestru amodol neu atal dros dro**

- (1) Mae'r adran hon yn gymwys pan fo panel addasrwydd i ymarfer wedi gwneud gorchymyn cofrestru amodol, gorchymyn atal dros dro neu orchymyn dileu mewn cysylltiad â pherson cofrestredig o dan adran 138(7), (8) neu (9) ("y penderfyniad").
- (2) Caiff y panel addasrwydd i ymarfer –
- (a) yn achos gorchymyn cofrestru amodol, gwneud gorchymyn y dylai cofrestriad y person cofrestredig yn y gofrestr fod yn ddarostyngedig i'r amodau gydag effaith ar unwaith, neu
  - (b) yn achos gorchymyn atal dros dro neu orchymyn dileu, gwneud gorchymyn y dylai cofrestriad y person cofrestredig yn y gofrestr gael ei atal dros dro gydag effaith ar unwaith.
- (3) Ni chaiff y panel wneud gorchymyn o dan is-adran (2) ("gorchymyn effaith ar unwaith") ond os yw wedi ei fodloni bod y gorchymyn –
- (a) yn angenrheidiol ar gyfer amddiffyn y cyhoedd,
  - (b) fel arall er budd y cyhoedd, neu
  - (c) er budd y person cofrestredig.
- (4) Rhaid i GCC roi hysbysiad i'r person cofrestredig bod gorchymyn effaith ar unwaith wedi ei wneud.

- (10) But the panel may not make a removal order if the only ground on which it has determined that the registered person's fitness to practise is impaired is adverse physical or mental health.

**139 Disposals: further provision about conditional registration and suspension orders**

- (1) A conditional registration order must specify –
- (a) the conditions with which the person to whom the order relates must comply, and
  - (b) the period for which the order is to have effect, which must not exceed 3 years; but see section 153 regarding extensions of that period on review.
- (2) A conditional registration order may specify –
- (a) that the order must be reviewed in accordance with arrangements specified in the order;
  - (b) different conditions that have effect for different periods; but this is subject to the limit mentioned in subsection (1)(b).
- (3) A suspension order must specify the period for which the order is to have effect, which must not exceed one year; but see section 154 regarding extensions of that period on review.
- (4) A suspension order may specify that the order must be reviewed in accordance with arrangements specified in the order.

**140 Immediate orders for conditional registration or suspension**

- (1) This section applies where a fitness to practise panel has made a conditional registration order, a suspension order or a removal order in respect of a registered person under section 138(7), (8) or (9) ("the decision").
- (2) The fitness to practise panel may –
- (a) in the case of a conditional registration order, make an order that the registered person's registration in the register should be subject to the conditions with immediate effect, or
  - (b) in the case of a suspension order or a removal order, make an order that the registered person's registration in the register should be suspended with immediate effect.
- (3) The panel may make an order under subsection (2) (an "immediate order") only if it is satisfied that the order –
- (a) is necessary for the protection of the public,
  - (b) is otherwise in the public interest, or
  - (c) is in the interests of the registered person.
- (4) SCW must give notice to the registered person of the making of an immediate order.

- (5) Mae gorchymyn effaith ar unwaith yn cael effaith o'r dyddiad yr hysbyswyd y person cofrestredig amdano –
- (a) tan y dyddiad y mae'r penderfyniad yn cymryd effaith yn unol ag adran 141(5), neu
  - (b) hyd nes bod apêl yn erbyn y penderfyniad yn cael ei chadarnhau.

**141 Penderfyniadau addasrwydd i ymarfer: hysbysu a chymryd effaith**

- (1) Pan fo panel addasrwydd i ymarfer yn gwaredu achos mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adrannau 135 i 138, rhaid i GCC roi hysbysiad i'r person cofrestredig o'r penderfyniad o ran gwaredu'r achos.
- (2) Mewn unrhyw achos pan fo'r gwarediad yn dilyn canfyddiad o ran amhariad ar addasrwydd i ymarfer, rhaid i'r hysbysiad i'r person cofrestredig gynnwys –
  - (a) datganiad o ffeithiau a ganfyddir gan y panel, a
  - (b) canfyddiad y panel o ran amhariad ar addasrwydd i ymarfer.
- (3) Mae penderfyniad i waredu achos mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adran 135, 136 neu 137 yn cymryd effaith ar unwaith.
- (4) Pan fo panel addasrwydd i ymarfer yn gwaredu achos mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adran 138(5) i (9), rhaid i GCC hefyd roi hysbysiad i'r person cofrestredig o'r hawl i apelio yn erbyn y penderfyniad o dan adran 158.
- (5) Nid yw penderfyniad i waredu achos mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adran 138(5) i (9) yn cymryd effaith –
  - (a) tan ddiwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r diwrnod yr hysbyswyd y person cofrestredig am y penderfyniad, neu
  - (b) os gwneir apêl o fewn y cyfnod hwnnw, hyd nes bod yr apêl yn cael ei thynnu'n ôl, ei therfynu neu ei gwrthod.

**142 Rheoliadau ynghylch gwarediadau gan baneli addasrwydd i ymarfer**

- (1) Caiff Gweinidogion Cymru drwy reoliadau ddiwygio adrannau 135 i 138 i ddiwygio'r ffyrdd y caiff panel addasrwydd i ymarfer waredu mater addasrwydd i ymarfer.
- (2) Caiff y rheoliadau, yn benodol –
  - (a) ychwanegu pŵer gwaredu newydd at y pwerau a grybwyllir yn yr adrannau hynny, a gwneud darpariaeth atodol mewn cysylltiad â'r pŵer hwnnw;
  - (b) diwygio neu ddiddymu pŵer gwaredu a grybwyllir yn yr adrannau hynny;
  - (c) diwygio neu ddiddymu darpariaethau yn yr adrannau hynny sy'n gwneud darpariaeth atodol mewn cysylltiad â pŵer gwaredu a grybwyllir yn yr adrannau hynny.

- (5) An immediate order has effect from the date on which the registered person was notified of it until—
  - (a) the date on which the decision takes effect in accordance with section 141(5), or
  - (b) an appeal against the decision is upheld.

**141 Fitness to practise decisions: notification and taking effect**

- (1) Where a fitness to practise panel disposes of a case in any of the ways specified in sections 135 to 138, SCW must give notice to the registered person of the decision as to the disposal of the case.
- (2) In any case where the disposal follows a finding as to impairment of fitness to practise, the notice to the registered person must include—
  - (a) a statement of facts found by the panel, and
  - (b) the panel's finding as to impairment of fitness to practise.
- (3) A decision to dispose of a case in any of the ways specified in section 135, 136 or 137 takes effect immediately.
- (4) Where a fitness to practise panel disposes of a case in any of the ways specified in section 138(5) to (9), SCW must also give notice to the registered person of the right of appeal against the decision under section 158.
- (5) A decision to dispose of a case in any of the ways specified in section 138(5) to (9) does not take effect until—
  - (a) the end of the period of 28 days beginning with the day on which the registered person was notified of the decision, or
  - (b) if an appeal is made within that period, the appeal is withdrawn, discontinued or dismissed.

**142 Regulations about disposals by fitness to practise panels**

- (1) The Welsh Ministers may by regulations amend sections 135 to 138 to revise the ways in which a fitness to practise panel may dispose of a fitness to practise matter.
- (2) The regulations may, in particular—
  - (a) add a new disposal power to the powers mentioned in those sections, and make supplementary provision in respect of such a power;
  - (b) amend or repeal a disposal power mentioned in those sections;
  - (c) amend or repeal provisions of those sections which make supplementary provision in respect of a disposal power mentioned in those sections.

## PENNOD 4

### GORCHMYNION INTERIM AC ADOLYGU GORCHMYNION INTERIM

#### 143 Cwmpas Pennod 4 a'i dehongli

- (1) Mae'r Bennod hon yn gymwys –
  - (a) pan fo mater wedi ei atgyfeirio i banel gorchmynion interim, a
  - (b) pan fo mater wedi ei atgyfeirio i banel addasrwydd i ymarfer, i'r achos gerbron y panel addasrwydd i ymarfer, neu'r rhan honno o'r achos hwnnw, pan fo'r panel addasrwydd i ymarfer yn ystyried –
    - (i) pa un ai i wneud gorchymyn interim o dan adran 144, neu
    - (ii) adolygu gorchymyn interim o dan adran 146.
- (2) Yn y Bennod hon –
 

ystyr "achos gorchymyn interim" ("*interim order proceedings*") yw achos y mae'r Bennod hon yn gymwys mewn cysylltiad ag ef, ac

ystyr "panel" ("*panel*") yw'r panel gorchmynion interim neu'r panel addasrwydd i ymarfer y dygir yr achos ger ei fron.
- (3) Yn y Bennod hon, mae cyfeiriad at berson cofrestredig yn gyfeiriad at y person cofrestredig y mae'r atgyfeiriad i'r panel wedi ei wneud mewn cysylltiad ag ef.

#### 144 Gorchmynion interim

- (1) Caiff panel mewn achos gorchymyn interim wneud gorchymyn interim mewn perthynas â pherson cofrestredig.
- (2) Caiff panel gorchmynion interim wneud gorchymyn interim pa un a yw'r mater wedi ei atgyfeirio i banel addasrwydd i ymarfer ai peidio.
- (3) Pan fo mater wedi ei atgyfeirio i banel addasrwydd i ymarfer, rhaid i unrhyw orchymyn interim gael ei wneud cyn i'r panel addasrwydd i ymarfer waredu'r mater yn unol ag unrhyw un neu ragor o adrannau 135 i 138.
- (4) Y ddau fath o orchymyn interim yw –
  - (a) gorchymyn atal dros dro interim, sef gorchymyn sy'n atal cofrestriad y person cofrestredig dros dro;
  - (b) gorchymyn cofrestru amodol interim, sef gorchymyn sy'n gosod amodau ar gofrestrriad y person cofrestredig.
- (5) Ni chaiff panel wneud gorchymyn interim ond os yw wedi ei fodloni bod y gorchymyn –
  - (a) yn angenrheidiol ar gyfer amddiffyn y cyhoedd,
  - (b) fel arall er budd y cyhoedd, neu
  - (c) er budd y person cofrestredig.
- (6) O ran gorchymyn interim –
  - (a) mae'n cymryd effaith ar unwaith, a

**CHAPTER 4****INTERIM ORDERS AND REVIEW OF INTERIM ORDERS****143 Scope and interpretation of Chapter 4**

- (1) This Chapter applies –
  - (a) where a matter has been referred to an interim orders panel, and
  - (b) 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 –
    - (i) whether to make an interim order under section 144, or
    - (ii) the review of an interim order under section 146.
- (2) In this Chapter –

“interim order proceedings” (“*achos gorchymyn interim*”) means proceedings in respect of which this Chapter applies, and

“panel” (“*panel*”) means the interim orders panel or fitness to practise panel before which the proceedings are brought.
- (3) In this Chapter a reference to a registered person is a reference to the registered person in respect of whom the referral to the panel has been made.

**144 Interim orders**

- (1) A panel may in interim order proceedings make an interim order in relation to a registered person.
- (2) An interim orders panel may make an interim order whether or not the matter has been referred to a fitness to practise panel.
- (3) Where a matter has been referred to a fitness to practise panel, any interim order must be made before the matter is disposed of by the fitness to practise panel in accordance with any of sections 135 to 138.
- (4) The two types of interim order are –
  - (a) an interim suspension order, which is an order suspending the registered person’s registration;
  - (b) an interim conditional registration order, which is an order imposing conditions on the registered person’s registration.
- (5) A panel may make an interim order only if it is satisfied that the order –
  - (a) is necessary for the protection of the public,
  - (b) is otherwise in the public interest, or
  - (c) is in the interests of the registered person.
- (6) An interim order –
  - (a) takes effect immediately, and



- (b) ni chaniateir iddo gael effaith am gyfnod sy'n hwy na 18 mis (oni bai ei fod yn cael ei estyn; gweler adran 148 (estyn gorchymyn interim gan y tribiwnlys)).
- (7) Pan fo gorchymyn interim yn cael ei wneud mewn cysylltiad â pherson cofrestredig, rhaid i GCC roi hysbysiad i'r person—
  - (a) o'r penderfyniad,
  - (b) o'r rhesymau dros y penderfyniad, ac
  - (c) o'r hawl i apelio o dan adran 145 yn erbyn y penderfyniad.

#### **145 Apelau yn erbyn gorchmynion interim**

- (1) Pan fo panel wedi gwneud gorchymyn interim o dan adran 144 mewn cysylltiad â pherson cofrestredig, caiff y person hwnnw apelio yn erbyn y gorchymyn i'r tribiwnlys.
- (2) Rhaid i apêl gael ei gwneud cyn diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r diwrnod y rhoddir hysbysiad o'r penderfyniad o dan adran 144(7).
- (3) Ond caiff y tribiwnlys ganiatáu i apêl gael ei gwneud iddo ar ôl diwedd y cyfnod a grybwyllir yn is-adran (2) os yw wedi ei fodloni bod rheswm da dros y methiant i apelio cyn diwedd y cyfnod hwnnw (a thros unrhyw oedi cyn gwneud cais am ganiatâd i apelio ar ôl yr amser priodol).
- (4) Ar apêl, caiff y tribiwnlys—
  - (a) dirymu'r gorchymyn interim,
  - (b) yn achos gorchymyn cofrestru amodol interim, dirymu neu amrywio unrhyw amod,
  - (c) rhoi gorchymyn cofrestru amodol interim yn lle gorchymyn atal dros dro interim,
  - (d) rhoi gorchymyn atal dros dro interim yn lle gorchymyn cofrestru amodol interim,
  - (e) amrywio'r cyfnod y mae'r gorchymyn interim i gael effaith ar ei gyfer,
  - (f) anfon yr achos yn ôl i GCC er mwyn iddo ei waredu yn unol â chyfarwyddydau'r tribiwnlys, neu
  - (g) peidio â gwneud unrhyw newid i'r gorchymyn interim.

#### **146 Adolygiadau o orchmynion interim: amseriad**

- (1) Rhaid i banel adolygu'n gyntaf orchymyn interim a wneir o dan adran 144 o fewn chwe mis sy'n dechrau â'r dyddiad y gwnaed y gorchymyn.
- (2) Pan fo gorchymyn interim a wneir o dan adran 144 wedi ei amrywio neu ei amnewid gan y tribiwnlys ar apêl o dan adran 145, mae'r cyfeiriad yn is-adran (1) at y dyddiad y gwnaed y gorchymyn i'w ddarllen fel cyfeiriad at ddyddiad penderfyniad y tribiwnlys.
- (3) Mae is-adran (4) yn nodi amseriad yr adolygiad cyntaf o orchymyn interim ar ôl i'r tribiwnlys ei estyn neu ei estyn ymhellach (gweler adran 148), ac ystyr "penderfyniad y tribiwnlys" yw'r penderfyniad i estyn y gorchymyn neu i estyn y gorchymyn ymhellach (yn ôl y digwydd).

- (b) may not have effect for a period of more than 18 months (unless it is extended; see section 148 (extension of interim order by the tribunal)).
- (7) Where an interim order is made in respect of a registered person, SCW must give notice to the person of—
  - (a) the decision,
  - (b) the reasons for the decision, and
  - (c) the right of appeal under section 145 against the decision.

#### **145 Appeals against interim orders**

- (1) Where a panel has made an interim order under section 144 in respect of a registered person, that person may appeal against the order to the tribunal.
- (2) An appeal must be made before the end of the period of 28 days beginning with the day on which notice of the decision is given under section 144(7).
- (3) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (4) On an appeal, the tribunal may—
  - (a) revoke the interim order,
  - (b) in the case of an interim conditional registration order, revoke or vary any condition,
  - (c) replace an interim suspension order with an interim conditional registration order,
  - (d) replace an interim conditional registration order with an interim suspension order,
  - (e) vary the period for which the interim order is to have effect,
  - (f) remit the case to SCW for it to dispose of in accordance with the directions of the tribunal, or
  - (g) make no change to the interim order.

#### **146 Reviews of interim orders: timing**

- (1) A panel must first review an interim order made under section 144 within six months beginning with the date on which the order was made.
- (2) Where an interim order made under section 144 has been varied or replaced by the tribunal on an appeal under section 145, the reference in subsection (1) to the date on which the order was made is to be read as a reference to the date of the tribunal's decision.
- (3) Subsection (4) sets out the timing of the first review of an interim order following its extension or further extension by the tribunal (see section 148), and "the tribunal's decision" means the decision to extend or further extend the order (as the case may be).

- (4) Rhaid i banel adolygu'r gorchymyn interim –
- (a) os nad oedd unrhyw adolygiad o'r gorchymyn wedi digwydd cyn penderfyniad y tribiwnlys, o fewn chwe mis sy'n dechrau â dyddiad penderfyniad y tribiwnlys, neu
  - (b) os oedd adolygiad o'r gorchymyn wedi digwydd cyn penderfyniad y tribiwnlys, o fewn tri mis sy'n dechrau â'r dyddiad hwnnw.
- (5) Mae is-adran (6) yn nodi amseriad yr adolygiad cyntaf o orchymyn cofrestru amodol interim amnewidiol neu orchymyn atal dros dro interim amnewidiol yn sgil adolygiad ("y gorchymyn amnewidiol") (gweler adran 147(1)(c) a (d)).
- (6) Rhaid i banel adolygu'r gorchymyn amnewidiol –
- (a) os nad oedd unrhyw adolygiad o'r gorchymyn sydd wedi ei amnewid wedi digwydd cyn yr adolygiad a arweiniodd at wneud y gorchymyn amnewidiol, o fewn chwe mis sy'n dechrau â'r dyddiad y gwnaed y gorchymyn amnewidiol, neu
  - (b) os oedd adolygiad o'r gorchymyn sydd wedi ei amnewid wedi digwydd cyn yr adolygiad a arweiniodd at wneud y gorchymyn amnewidiol, o fewn tri mis sy'n dechrau â'r dyddiad y gwnaed y gorchymyn amnewidiol.
- (7) Ar ôl yr adolygiad cyntaf o orchymyn interim o dan is-adran (1), (4) neu (6), rhaid i banel adolygu'r gorchymyn (am gyhyd ag y mae mewn grym) –
- (a) o fewn chwe mis sy'n dechrau â dyddiad penderfyniad yr adolygiad diweddaraf, neu
  - (b) os yw'r person cofrestredig yn gofyn am adolygiad cynharach ar ôl diwedd y cyfnod o dri mis sy'n dechrau â'r dyddiad hwnnw, cyn gynted ag y bo'n ymarferol.
- (8) Caiff panel adolygu gorchymyn interim ar unrhyw adeg os daw tystiolaeth newydd ar gael sy'n berthnasol i'r achos.
- (9) Mewn is-adrannau (7) ac (8), mae cyfeiriad at orchymyn interim yn cynnwys cyfeiriad at –
- (a) gorchymyn interim fel y'i hestynnir neu fel y'i hestynnir ymhellach gan y tribiwnlys,
  - (b) gorchymyn interim fel y'i hamrywir yn sgil adolygiad (gweler adran 147(1)(b)), ac
  - (c) gorchymyn cofrestru amodol interim amnewidiol neu orchymyn atal dros dro interim amnewidiol a wneir yn sgil adolygiad.

#### **147 Adolygiadau o orchymyn interim: penderfyniadau posibl**

- (1) Ar ôl i banel gwblhau adolygiad o orchymyn interim, caiff y panel –
- (a) dirymu'r gorchymyn interim;
  - (b) yn achos gorchymyn cofrestru amodol interim, dirymu neu amrywio unrhyw amod;
  - (c) rhoi gorchymyn cofrestru amodol interim yn lle gorchymyn atal dros dro interim;
  - (d) rhoi gorchymyn atal dros dro interim yn lle gorchymyn cofrestru amodol interim;
  - (e) peidio â gwneud unrhyw newidiadau i'r gorchymyn interim.

- (4) A panel must review the interim order –
  - (a) if no review of the order had taken place before the tribunal’s decision, within six months beginning with the date of the tribunal’s decision, or
  - (b) if a review of the order had taken place before the tribunal’s decision, within three months beginning with that date.
- (5) Subsection (6) sets out the timing of the first review of a replacement interim conditional registration order or interim suspension order made on a review (“the replacement order”) (see section 147(1)(c) and (d)).
- (6) A panel must review the replacement order –
  - (a) if no review of the order which has been replaced had taken place before the review which led to the replacement order being made, within six months beginning with the date on which the replacement order was made, or
  - (b) if a review of the order which has been replaced had taken place before the review which led to the replacement order being made, within three months beginning with the date on which the replacement order was made.
- (7) After the first review of an interim order under subsection (1), (4) or (6), a panel must review the order (for so long as it is in effect) –
  - (a) within six months beginning with the date of the decision of the most recent review, or
  - (b) if after the end of the period of three months beginning with that date, the registered person requests an earlier review, as soon as practicable.
- (8) A panel may review an interim order at any time if new evidence becomes available which is relevant to the case.
- (9) In subsections (7) and (8) a reference to an interim order includes a reference to –
  - (a) an interim order as extended or further extended by the tribunal,
  - (b) an interim order as varied on a review (see section 147(1)(b)), and
  - (c) a replacement interim conditional registration order or interim suspension order made on a review.

#### **147     Reviews of interim order: possible decisions**

- (1) On the completion by a panel of a review of an interim order, the panel may –
  - (a) revoke the interim order;
  - (b) in the case of an interim conditional registration order, revoke or vary any condition;
  - (c) replace an interim suspension order with an interim conditional registration order;
  - (d) replace an interim conditional registration order with an interim suspension order;
  - (e) make no changes to the interim order.

- (2) Ni chaiff panel wneud penderfyniad a bennir yn is-adran (1)(b), (c), (d) neu (e) ond os yw'r panel wedi ei fodloni bod y penderfyniad –
  - (a) yn angenrheidiol ar gyfer amddiffyn y cyhoedd,
  - (b) fel arall er budd y cyhoedd, neu
  - (c) er budd y person cofrestredig.
- (3) Mae gorchymyn amnewidiol a wneir o dan is-adran (1)(c) neu (d) yn cael effaith am weddill y cyfnod yr oedd y gorchymyn y mae'n cymryd ei le yn cael effaith ar ei gyfer (oni bai ei fod yn cael ei estyn o dan adran 148).
- (4) Yn yr adran hon –
  - (a) mae cyfeiriad at orchymyn interim yn cynnwys cyfeiriad at –
    - (i) gorchymyn interim fel y'i hestynnir neu fel y'i hestynnir ymhellach gan y tribiwnlys;
    - (ii) gorchymyn interim fel y'i hamrywir o dan is-adran (1)(b);
    - (iii) gorchymyn cofrestru amodol interim amnewidiol neu orchymyn atal dros dro interim amnewidiol a wneir o dan is-adran (1)(c) neu (d);
  - (b) mae cyfeiriad at orchymyn cofrestru amodol interim neu orchymyn atal dros dro interim yn cynnwys cyfeiriad at –
    - (i) gorchymyn interim o'r math hwnnw fel y'i hestynnir neu fel y'i hestynnir ymhellach gan y tribiwnlys;
    - (ii) yn achos gorchymyn cofrestru amodol interim, gorchymyn interim fel y'i hamrywir o dan is-adran (1)(b);
    - (iii) gorchymyn amnewidiol o'r math hwnnw a wneir o dan is-adran (1)(c) neu (d).

#### **148 Estyn gorchymyn interim gan y tribiwnlys**

- (1) Caiff GCC wneud cais i'r tribiwnlys i orchymyn interim gael ei estyn neu ei estyn ymhellach.
- (2) Ar gais, caiff y tribiwnlys –
  - (a) dirymu'r gorchymyn interim,
  - (b) yn achos gorchymyn cofrestru amodol, dirymu neu amrywio unrhyw amod,
  - (c) estyn, neu estyn ymhellach, y gorchymyn am hyd at 12 mis, neu
  - (d) peidio â gwneud unrhyw newid i'r gorchymyn nac i'r cyfnod y mae'r gorchymyn i gael effaith ar ei gyfer.
- (3) Yn yr adran hon, mae cyfeiriad at orchymyn interim yn cynnwys cyfeiriad at –
  - (a) gorchymyn interim fel y'i hestynnir neu fel y'i hestynnir ymhellach o dan yr adran hon,
  - (b) gorchymyn interim a amrywir yn sgil adolygiad (gweler adran 147(1)(b)), ac
  - (c) gorchymyn cofrestru amodol interim amnewidiol neu orchymyn atal dros dro interim amnewidiol a wneir yn sgil adolygiad (gweler adran 147(1)(c) neu (d)).

- (2) A panel may make a decision specified in subsection (1)(b), (c), (d) or (e) only if the panel is satisfied that the decision—
  - (a) is necessary for the protection of the public,
  - (b) is otherwise in the public interest, or
  - (c) is in the interests of the registered person.
- (3) A replacement order made under subsection (1)(c) or (d) has effect for the remainder of the period for which the order which it replaces had effect (unless it is extended under section 148).
- (4) In this section—
  - (a) a reference to an interim order includes a reference to—
    - (i) an interim order as extended or further extended by the tribunal;
    - (ii) an interim order as varied under subsection (1)(b);
    - (iii) a replacement interim conditional registration order or interim suspension order made under subsection (1)(c) or (d);
  - (b) a reference to an interim conditional registration order or an interim suspension order includes a reference to—
    - (i) an interim order of that kind as extended or further extended by the tribunal;
    - (ii) in the case of an interim conditional registration order, an interim order as varied under subsection (1)(b);
    - (iii) a replacement order of that kind made under subsection (1)(c) or (d).

#### **148 Extension of interim order by the tribunal**

- (1) SCW may apply to the tribunal for an interim order to be extended or further extended.
- (2) On an application, the tribunal may—
  - (a) revoke the interim order,
  - (b) in the case of a conditional registration order, revoke or vary any condition,
  - (c) extend, or further extend, the order for up to 12 months, or
  - (d) make no change to the order or to the period for which the order is to have effect.
- (3) In this section, a reference to an interim order includes a reference to—
  - (a) an interim order as extended or further extended under this section,
  - (b) an interim order varied on a review (see section 147(1)(b)), and
  - (c) a replacement interim conditional registration order or interim suspension order made on a review (see section 147(1)(c) or (d)).

**149 Dirymu gorchmynion interim**

- (1) Mae'r adran hon yn gymwys pan—
  - (a) bo panel addasrwydd i ymarfer yn gwaredu mater mewn cysylltiad â pherson cofrestredig mewn unrhyw un neu ragor o'r ffyrdd a nodir yn adrannau 135 i 138, a
  - (b) ar yr adeg honno, fo'r person cofrestredig yn ddarostyngedig i orchymyn interim (gweler adran 144).
- (2) Rhaid i'r panel addasrwydd i ymarfer, ar yr un pryd ag y mae'n gwaredu'r mater, ddirymu'r gorchymyn interim.
- (3) Mae'r dirymiad o'r gorchymyn interim yn cymryd effaith ar y dyddiad y mae'r panel yn gwaredu'r mater fel y'i disgrifir yn is-adran (1)(a).
- (4) Yn yr adran hon, mae cyfeiriad at orchymyn interim yn cynnwys cyfeiriad at y canlynol (gweler adrannau 147 a 148)—
  - (a) gorchymyn interim fel y'i hestynnir neu fel y'i hestynnir ymhellach gan y tribiwnlys;
  - (b) gorchymyn interim fel y'i hamrywyr yn sgil adolygiad;
  - (c) gorchymyn cofrestru amodol interim amnewidiol neu orchymyn atal dros dro interim amnewidiol a wneir yn sgil adolygiad.

**PENNOD 5****ACHOSION ADOLYGU****150 Achosion adolygu: dehongli a chyffredinol**

- (1) Yn y Bennod hon, mae cyfeiriad at berson cofrestredig yn gyfeiriad at y person cofrestredig y mae ei addasrwydd i ymarfer yn ddarostyngedig i adolygiad o dan adran 151.
- (2) Ni chaiff panel addasrwydd i ymarfer wneud gorchymyn ar gyfer dileu cofnod person cofrestredig o'r gofrestr drwy gytundeb o dan adran 152(2), 153(2), 154(2) neu 155(5) ond os yw'r person wedi cytuno ar ddatganiad o ffeithiau sy'n ymwneud â'r mater.
- (3) Os gwneir gorchymyn o'r fath o dan unrhyw un neu ragor o'r darpariaethau hynny, caiff GCC—
  - (a) cyhoeddi'r datganiad o ffeithiau y cytunir arnynt yn y modd y mae'n meddwl ei fod yn briodol, a
  - (b) datgelu'r datganiad i unrhyw berson os yw GCC yn meddwl ei bod er budd y cyhoedd i wneud hynny.
- (4) Pan fo panel addasrwydd i ymarfer yn cytuno ar ymgymeriadau neu'n eu cadarnhau, neu'n cytuno ar unrhyw amrywiad o ymgymeriadau, o dan adran 152(5) neu (6), 153(4), 154(4) neu 155(7), rhaid i GCC ddatgelu manylion yr ymgymeriadau i unrhyw berson—
  - (a) y cyflogir y person cofrestredig fel gweithiwr gofal cymdeithasol ganddo, hyd y gwyr GCC,

**149 Revocation of interim orders**

- (1) This section applies where –
  - (a) a fitness to practise panel disposes of a matter in respect of a registered person in any of the ways set out in sections 135 to 138, and
  - (b) at that time, the registered person is subject to an interim order (see section 144).
- (2) The fitness to practise panel must, at the same time as it disposes of the matter, revoke the interim order.
- (3) The revocation of the interim order takes effect on the date on which the panel disposes of the matter as described in subsection (1)(a).
- (4) In this section a reference to an interim order includes a reference to the following (see sections 147 and 148) –
  - (a) an interim order as extended or further extended by the tribunal;
  - (b) an interim order as varied on a review;
  - (c) a replacement interim conditional registration order or interim suspension order made on a review.

**CHAPTER 5**

**REVIEW PROCEEDINGS**

**150 Review proceedings: interpretation and general**

- (1) In this Chapter a reference to a registered person is to the registered person whose fitness to practise is the subject of a review under section 151.
- (2) A fitness to practise panel may make an order for removal of a registered person's entry from the register by agreement under section 152(2), 153(2), 154(2) or 155(5) only if the person has agreed to a statement of facts relating to the matter.
- (3) If such an order is made under any of those provisions, SCW –
  - (a) may publish the statement of agreed facts in such manner as it thinks appropriate, and
  - (b) may disclose the statement to any person if SCW thinks it is in the public interest to do so.
- (4) Where a fitness to practise panel agrees or confirms undertakings, or agrees any variation of undertakings, under section 152(5) or (6), 153(4), 154(4) or 155(7), SCW must disclose details of the undertakings to any person –
  - (a) by whom, to the knowledge of SCW, the registered person is employed as a social care worker,



- (b) sydd, hyd y gŵyr GCC, â threfniant â'r person cofrestredig i'r person cofrestredig ddarparu gwasanaethau i drydydd parti yn rhinwedd ei swydd fel gweithiwr gofal cymdeithasol,
  - (c) y mae'r person cofrestredig, hyd y gŵyr GCC, yn ceisio cyflogaeth o'r fath neu drefniant o'r fath ganddo, a
  - (d) a ragnodir.
- (5) Ond ni chaiff GCC ddatgelu i unrhyw berson fanylion unrhyw ymgymeriad nad yw ond yn ymwneud ag iechyd corfforol neu iechyd meddwl y person cofrestredig.

### **151 Achosion adolygu**

- (1) Mae is-adran (2) yn gymwys pan fo ymgymeriadau y cytunir arnynt rhwng panel addasrwydd i ymarfer a pherson cofrestredig o dan adran 136(1), 152(5) neu (6), 153(4), 154(4) neu 155(7) yn cael effaith.
- (2) Rhaid i banel addasrwydd i ymarfer gynnal adolygiad o addasrwydd y person cofrestredig i ymarfer yn unol ag unrhyw ofynion o ran adolygiad a gynhwysir yn yr ymgymeriadau hynny.
- (3) Mae is-adran (4) yn gymwys pan fo gorchymyn cofrestru amodol a wneir (neu a gadarnheir neu a amrywir) o dan adran 138(7), 152(8)(c), 153(6) neu (7), 154(8)(c) neu 155(10)(c) yn cael effaith mewn perthynas â pherson cofrestredig.
- (4) Rhaid i banel addasrwydd i ymarfer gynnal adolygiad o addasrwydd y person cofrestredig i ymarfer yn unol ag unrhyw ofynion o ran adolygiad a gynhwysir yn y gorchymyn cofrestru amodol.
- (5) Mae is-adran (6) yn gymwys pan fo gorchymyn atal dros dro a wneir (neu a gadarnheir neu a amrywir) o dan adran 138(8), 152(8)(d), 153(9)(c) neu 154(6) neu (7) yn cael effaith mewn perthynas â pherson cofrestredig.
- (6) Rhaid i banel addasrwydd i ymarfer gynnal adolygiad o addasrwydd y person cofrestredig i ymarfer yn unol ag unrhyw ofynion o ran adolygiad a gynhwysir yn y gorchymyn atal dros dro.
- (7) Rhaid i banel addasrwydd i ymarfer hefyd gynnal adolygiad o addasrwydd person cofrestredig i ymarfer mewn achos y mae GCC yn ei atgyfeirio iddo o dan adran 133.

### **152 Adolygu ymgymeriadau: gwarediadau gan banel addasrwydd i ymarfer**

- (1) Mae'r adran hon yn pennu'r gwarediadau posibl y caniateir eu gwneud gan banel addasrwydd i ymarfer sydd wedi cwblhau adolygiad o dan adran 151(2) neu (7) o addasrwydd i ymarfer berson cofrestredig sydd wedi cytuno ar ymgymeriadau.
- (2) Os yw'r person cofrestredig wedi gwneud cais o dan adran 92 i'r cofnod sy'n ymwneud â'r person gael ei ddileu o'r gofrestr drwy gytundeb, caiff y panel wneud gorchymyn i'r cofnod hwnnw gael ei ddileu.
- (3) Os yw'r panel yn dyfarnu nad oes amhariad bellach ar addasrwydd y person cofrestredig i ymarfer —
  - (a) rhaid i'r panel ddirymu'r ymgymeriadau, a

- (b) who, to the knowledge of SCW, has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker,
  - (c) from whom, to the knowledge of SCW, the registered person is seeking such employment or such an arrangement, and
  - (d) as may be prescribed.
- (5) But SCW may not disclose to any person details of any undertaking which relates solely to the registered person's physical or mental health.

### **151 Review proceedings**

- (1) Subsection (2) applies where undertakings agreed between a fitness to practise panel and a registered person under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7) have effect.
- (2) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in those undertakings.
- (3) Subsection (4) applies where a conditional registration order made (or confirmed or varied) under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c) has effect in relation to a registered person.
- (4) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in the conditional registration order.
- (5) Subsection (6) applies where a suspension order made (or confirmed or varied) under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7) has effect in relation to a registered person.
- (6) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in the suspension order.
- (7) A fitness to practise panel must also carry out a review of a registered person's fitness to practise in a case referred to it by SCW under section 133.

### **152 Review of undertakings: disposals by fitness to practise panel**

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(2) or (7) of the fitness to practise of a registered person who has agreed undertakings.
- (2) If the registered person has applied under section 92 for removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel –
  - (a) must revoke the undertakings, and

- (b) caiff y panel wneud y naill neu'r llall neu'r ddau o'r canlynol –
  - (i) rhoi cyngor i'r person ar unrhyw fater sy'n gysylltiedig â'r achos;
  - (ii) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol.
- (4) Os yw'r person cofrestredig yn cyfaddef bod amhariad ar ei addasrwydd i ymarfer, neu os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person i ymarfer, caiff y panel wneud gwarediad a bennir yn is-adran (5) neu (6).
- (5) Caiff y panel gytuno â'r person cofrestredig fod yr ymgymeriadau yn parhau i gael effaith heb unrhyw amrywiadau.
- (6) Caiff y panel gytuno â'r person cofrestredig y caniateir i'r naill neu'r llall neu'r ddau o'r amrywiadau a ganlyn gael eu gwneud i unrhyw ymgymeriad –
  - (a) amrywio ei delerau;
  - (b) estyn neu leihau'r cyfnod y mae i gael effaith ar ei gyfer.
- (7) O dan is-adran (6)(b), ni chaiff estyniad o'r cyfnod y mae unrhyw ymgymeriad i gael effaith ar ei gyfer fod am fwy na 3 blynedd.
- (8) Os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer, caiff y panel ddirymu'r ymgymeriadau a phenderfynu –
  - (a) peidio â chymryd unrhyw gamau pellach mewn cysylltiad â'r person,
  - (b) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol,
  - (c) gwneud gorchymyn cofrestru amodol,
  - (d) gwneud gorchymyn atal dros dro, neu
  - (e) yn ddarostyngedig i is-adran (9), gwneud gorchymyn dileu.
- (9) Ni chaiff y panel wneud gorchymyn dileu mewn achos pan fo'r panel wedi dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer ar sail iechyd corfforol neu iechyd meddwl andwyol, ac nid ar unrhyw sail arall yn adran 117.

**153 Adolygu gorchymynion cofrestru amodol: gwarediadau gan banel addasrwydd i ymarfer**

- (1) Mae'r adran hon yn pennu'r gwarediadau posibl y caniateir eu gwneud gan banel addasrwydd i ymarfer sydd wedi cwblhau adolygiad o dan adran 151(4) neu (7) o addasrwydd i ymarfer berson cofrestredig sy'n ddarostyngedig i orchymyn cofrestru amodol.
- (2) Os yw'r person cofrestredig wedi gwneud cais o dan adran 92 i'r cofnod sy'n ymwneud â'r person gael ei ddileu o'r gofrestr drwy gytundeb, caiff y panel wneud gorchymyn i'r cofnod hwnnw gael ei ddileu.
- (3) Os yw'r panel yn dyfarnu nad oes amhariad bellach ar addasrwydd y person cofrestredig i ymarfer –
  - (a) rhaid i'r panel ddirymu'r gorchymyn cofrestru amodol, a

- (b) may do either or both of the following—
  - (i) give advice to the person on any matter related to the case;
  - (ii) give the person a warning in respect of future conduct or performance.
- (4) If the registered person admits that his or her fitness to practise is impaired, or if the panel determines that the person's fitness to practise is impaired, the panel may make a disposal specified in subsection (5) or (6).
- (5) The panel may agree with the registered person that the undertakings remain in effect with no variations.
- (6) The panel may agree with the registered person that either or both of the following variations may be made to any undertaking—
  - (a) a variation of its terms;
  - (b) an extension or reduction of the period for which it is to have effect.
- (7) Under subsection (6)(b) an extension of the period for which any undertaking is to have effect may not be for more than 3 years.
- (8) If the panel determines that the registered person's fitness to practise is impaired, the panel may revoke the undertakings and make a decision to—
  - (a) take no further action in respect of the person,
  - (b) give a warning to the person in respect of future conduct or performance,
  - (c) make a conditional registration order,
  - (d) make a suspension order, or
  - (e) subject to subsection (9), make a removal order.
- (9) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.

### **153 Review of conditional registration orders: disposals by fitness to practise panel**

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(4) or (7) of the fitness to practise of a registered person who is subject to a conditional registration order.
- (2) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
  - (a) must revoke the conditional registration order, and

- (b) caiff y panel wneud y naill neu'r llall neu'r ddau o'r canlynol –
  - (i) rhoi cyngor i'r person ar unrhyw fater sy'n gysylltiedig â'r achos;
  - (ii) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol.
- (4) Caiff y panel gytuno ar ymgymeriadau â'r person cofrestredig –
  - (a) os yw'r person yn cyfaddef bod amhariad ar ei addasrwydd i ymarfer, neu
  - (b) os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person i ymarfer.
- (5) Os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer (ac na chytunwyd ar ymgymeriadau), caiff y panel waredu'r achos fel y'i disgrifir yn is-adrannau (6), (7) neu (9).
- (6) Caiff y panel gadarnhau'r gorchymyn cofrestru amodol heb unrhyw amrywiadau.
- (7) Caiff y panel wneud unrhyw un neu ragor neu'r cwbl o'r canlynol mewn cysylltiad â'r gorchymyn cofrestru amodol –
  - (a) dirymu unrhyw amod;
  - (b) amrywio unrhyw amod;
  - (c) estyn neu leihau'r cyfnod y mae'r gorchymyn i gael effaith ar ei gyfer.
- (8) O dan is-adran (7)(c) ni chaiff estyniad o'r cyfnod y mae'r gorchymyn i gael effaith ar ei gyfer fod am fwy na 3 blynedd.
- (9) Caiff y panel ddirymu'r gorchymyn cofrestru amodol a phenderfynu –
  - (a) peidio â chymryd unrhyw gamau pellach mewn cysylltiad â'r person cofrestredig,
  - (b) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol,
  - (c) gwneud gorchymyn atal dros dro, neu
  - (d) yn ddarostyngedig i is-adran (10), gwneud gorchymyn dileu.
- (10) Ni chaiff y panel wneud gorchymyn dileu mewn achos pan fo'r panel wedi dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer ar sail iechyd corfforol neu iechyd meddwl andwyol, ac nid ar unrhyw sail arall yn adran 117.

**154 Adolygu gorchymynion atal dros dro: gwarediadau gan banel addasrwydd i ymarfer**

- (1) Mae'r adran hon yn pennu'r gwarediadau posibl y caniateir eu gwneud gan banel addasrwydd i ymarfer sydd wedi cwblhau adolygiad o dan adran 151(6) neu (7) o addasrwydd i ymarfer berson cofrestredig sy'n ddarostyngedig i orchymyn atal dros dro.
- (2) Os yw'r person cofrestredig wedi gwneud cais o dan adran 92 i'r cofnod sy'n ymwneud â'r person gael ei ddileu o'r gofrestr drwy gytundeb, caiff y panel wneud gorchymyn i'r cofnod hwnnw gael ei ddileu.
- (3) Os yw'r panel yn dyfarnu nad oes amhariad bellach ar addasrwydd y person cofrestredig i ymarfer –
  - (a) rhaid i'r panel ddirymu'r gorchymyn atal dros dro, a

- (b) may do either or both of the following—
  - (i) give advice to the person on any matter related to the case;
  - (ii) give the person a warning in respect of future conduct or performance.
- (4) The panel may agree undertakings with the registered person—
  - (a) if the person admits that his or her fitness to practise is impaired, or
  - (b) if the panel determines that the person's fitness to practise is impaired.
- (5) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsections (6), (7) or (9).
- (6) The panel may confirm the conditional registration order with no variations.
- (7) The panel may do any or all of the following in respect of the conditional registration order—
  - (a) revoke any condition;
  - (b) vary any condition;
  - (c) extend or reduce the period for which the order is to have effect.
- (8) Under subsection (7)(c) an extension of the period for which the order is to have effect may not be for more than 3 years.
- (9) The panel may revoke the conditional registration order and make a decision to—
  - (a) take no further action in respect of the registered person,
  - (b) give a warning to the person in respect of future conduct or performance,
  - (c) make a suspension order, or
  - (d) subject to subsection (10), make a removal order.
- (10) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.

#### **154 Review of suspension orders: disposals by fitness to practise panel**

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(6) or (7) of the fitness to practise of a registered person who is subject to a suspension order.
- (2) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
  - (a) must revoke the suspension order, and

- (b) caiff y panel wneud y naill neu'r llall neu'r ddau o'r canlynol –
  - (i) rhoi cyngor i'r person ar unrhyw fater sy'n gysylltiedig â'r achos;
  - (ii) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol.
- (4) Caiff y panel gytuno ar ymgymeriadau â'r person cofrestredig –
  - (a) os yw'r person yn cyfaddef bod amhariad ar ei addasrwydd i ymarfer, neu
  - (b) os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person i ymarfer.
- (5) Os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer (ac na chytunwyd ar ymgymeriadau), caiff y panel waredu'r achos fel y'i disgrifir yn is-adrannau (6), (7), (8) neu (10).
- (6) Caiff y panel gadarnhau'r gorchymyn atal dros dro heb unrhyw amrywiadau.
- (7) Caiff y panel –
  - (a) estyn y cyfnod y mae'r gorchymyn atal dros dro i gael effaith ar ei gyfer am gyfnod nad yw'n hwy na 12 mis, neu
  - (b) lleihau'r cyfnod y mae'r gorchymyn atal dros dro i gael effaith ar ei gyfer.
- (8) Caiff y panel ddirymu'r gorchymyn atal dros dro a phenderfynu –
  - (a) peidio â chymryd unrhyw gamau pellach mewn cysylltiad â'r person cofrestredig,
  - (b) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol,
  - (c) gwneud gorchymyn cofrestru amodol, neu
  - (d) gwneud gorchymyn dileu.
- (9) Ni chaiff y panel wneud gorchymyn dileu mewn achos pan fo'r panel wedi dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer ar sail iechyd corfforol neu iechyd meddwl andwyol, ac nid ar unrhyw sail arall yn adran 117.
- (10) Os yw'r amodau yn is-adran (11) wedi eu bodloni, caiff y panel wneud gorchymyn atal dros dro amhenodol, sef gorchymyn sy'n atal dros dro gofrestriad y person cofrestredig yn y gofrestr am gyfnod amhenodol.
- (11) Yr amodau yw –
  - (a) bod y panel wedi dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer ar sail iechyd corfforol neu iechyd meddwl andwyol, ac nid ar unrhyw sail arall a bennir yn adran 117,
  - (b) bod y person, ar ddyddiad penderfyniad y panel, wedi ei atal dros dro am o leiaf 2 flynedd, ac
  - (c) bod y gorchymyn atal dros dro y mae'r person yn ddarostyngedig iddo i fod i ddod i ben o fewn 2 fis i ddyddiad penderfyniad y panel.

## 155 Adolygu gorchmynion atal dros dro amhenodol

- (1) Mae'r adran hon yn gymwys pan fo panel addasrwydd i ymarfer wedi gwneud gorchymyn atal dros dro amhenodol.

- (b) may do either or both of the following—
  - (i) give advice to the person on any matter related to the case;
  - (ii) give the person a warning in respect of future conduct or performance.
- (4) The panel may agree undertakings with the registered person—
  - (a) if the person admits that his or her fitness to practise is impaired, or
  - (b) if the panel determines that the person’s fitness to practise is impaired.
- (5) If the panel determines that the registered person’s fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsections (6), (7), (8) or (10).
- (6) The panel may confirm the suspension order with no variations.
- (7) The panel may—
  - (a) extend the period for which the suspension order is to have effect for a period of no more than 12 months, or
  - (b) reduce the period for which the suspension order is to have effect.
- (8) The panel may revoke the suspension order and make a decision to—
  - (a) take no further action in respect of the registered person,
  - (b) give a warning to the person in respect of future conduct or performance,
  - (c) make a conditional registration order, or
  - (d) make a removal order.
- (9) The panel may not make a removal order in a case where the panel has determined that the registered person’s fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.
- (10) If the conditions in subsection (11) are met, the panel may make an indefinite suspension order, which is an order suspending the registered person’s registration in the register for an indefinite period.
- (11) The conditions are—
  - (a) the panel has determined that the registered person’s fitness to practise is impaired on the grounds of adverse physical or mental health, and on no other ground specified in section 117,
  - (b) at the date of the panel’s decision, the person has been suspended for at least 2 years, and
  - (c) the suspension order to which the person is subject is due to expire within 2 months of the date of the panel’s decision.

## 155 **Review of indefinite suspension orders**

- (1) This section applies where a fitness to practise panel has made an indefinite suspension order.



- (2) Rhaid i banel addasrwydd i ymarfer adolygu'r gorchymyn atal dros dro amhenodol ar gais y person cofrestredig.
- (3) Ni chaiff y person cofrestredig wneud cais am adolygiad –
  - (a) cyn i'r cyfnod o 2 flynedd sy'n dechrau â'r dyddiad y gwnaed y gorchymyn ddod i ben, neu
  - (b) o fewn y cyfnod o 2 flynedd sy'n dechrau â dyddiad cais blaenorol am adolygiad.
- (4) Mae'r is-adrannau a ganlyn yn pennu'r gwarediadau posibl y caniateir eu gwneud gan banel addasrwydd i ymarfer sydd wedi cwblhau adolygiad o dan is-adran (2).
- (5) Os yw'r person cofrestredig wedi gwneud cais o dan adran 92 i'r cofnod sy'n ymwneud â'r person gael ei ddileu o'r gofrestr drwy gytundeb, caiff y panel wneud gorchymyn i'r cofnod hwnnw gael ei ddileu.
- (6) Os yw'r panel yn dyfarnu nad oes amhariad bellach ar addasrwydd y person cofrestredig i ymarfer –
  - (a) rhaid i'r panel ddirymu'r gorchymyn atal dros dro amhenodol, a
  - (b) caiff y panel wneud y naill neu'r llall neu'r ddau o'r canlynol –
    - (i) rhoi cyngor i'r person ar unrhyw fater sy'n gysylltiedig â'r achos;
    - (ii) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol.
- (7) Caiff y panel gytuno ar ymgymeriadau â'r person cofrestredig –
  - (a) os yw'r person yn cyfaddef bod amhariad ar ei addasrwydd i ymarfer, neu
  - (b) os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person i ymarfer.
- (8) Os yw'r panel yn dyfarnu bod amhariad ar addasrwydd y person cofrestredig i ymarfer (ac na chytunwyd ar ymgymeriadau), caiff y panel waredu'r achos fel y'i disgrifir yn is-adran (9) neu (10).
- (9) Caiff y panel gadarnhau'r gorchymyn atal dros dro amhenodol.
- (10) Caiff y panel ddirymu'r gorchymyn atal dros dro amhenodol a phenderfynu –
  - (a) peidio â chymryd unrhyw gamau pellach mewn cysylltiad â'r person cofrestredig,
  - (b) rhoi rhybudd i'r person mewn cysylltiad ag ymddygiad neu berfformiad yn y dyfodol, neu
  - (c) gwneud gorchymyn cofrestru amodol.

**156 Adolygiadau: darpariaeth bellach ynghylch gorchymynion cofrestru amodol a gorchymynion atal dros dro**

- (1) Mae is-adrannau (2) a (3) yn gymwys i orchymyn cofrestru amodol a wneir o dan adran 152(8)(c), 154(8)(c) neu 155(10)(c).
- (2) Rhaid i'r gorchymyn bennu –
  - (a) yr amodau y mae rhaid i'r person y mae'r gorchymyn yn ymwneud ag ef gydymffurfio â hwy, a

- (2) A fitness to practise panel must review the indefinite suspension order on the application of the registered person.
- (3) The registered person may not make an application for review –
  - (a) before the expiry of the period of 2 years beginning with the date on which the order was made, or
  - (b) within the period of 2 years beginning with the date of a previous application for review.
- (4) The following subsections specify the possible disposals which may be made by a fitness to practise panel which has completed a review under subsection (2).
- (5) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (6) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel –
  - (a) must revoke the indefinite suspension order, and
  - (b) may do either or both of the following –
    - (i) give advice to the person on any matter related to the case;
    - (ii) give the person a warning in respect of future conduct or performance.
- (7) The panel may agree undertakings with the registered person –
  - (a) if the person admits that his or her fitness to practise is impaired, or
  - (b) if the panel determines that the person's fitness to practise is impaired.
- (8) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsection (9) or (10).
- (9) The panel may confirm the indefinite suspension order.
- (10) The panel may revoke the indefinite suspension order and make a decision to –
  - (a) take no further action in respect of the registered person,
  - (b) give a warning to the person in respect of future conduct or performance, or
  - (c) make a conditional registration order.

**156      Reviews: further provision about conditional registration and suspension orders**

- (1) Subsections (2) and (3) apply to a conditional registration order made under section 152(8)(c), 154(8)(c) or 155(10)(c).
- (2) The order must specify –
  - (a) the conditions with which the person to whom the order relates must comply, and

- (b) y cyfnod y mae'r gorchymyn i gael effaith ar ei gyfer, na chaniateir iddo fod yn hwy na 3 blynedd; ond gweler adran 153 ynglŷn ag estyniadau o'r cyfnod hwnnw yn sgil adolygiad.
- (3) Caiff y gorchymyn bennu –
  - (a) bod rhaid ei adolygu yn unol â threfniadau a bennir yn y gorchymyn;
  - (b) amodau gwahanol sy'n cael effaith ar gyfer cyfnodau gwahanol; ond mae hyn yn ddarostyngedig i'r terfyn a grybwyllir yn is-adran (2)(b).
- (4) Mae is-adrannau (5) a (6) yn gymwys i orchymyn atal dros dro a wneir o dan adran 152(8)(d) neu 153(9)(c).
- (5) Rhaid i'r gorchymyn bennu'r cyfnod y mae'r gorchymyn i gael effaith ar ei gyfer, na chaniateir iddo fod yn hwy na 3 blynedd; ond gweler adran 154 ynglŷn ag estyniadau o'r cyfnod hwnnw yn sgil adolygiad.
- (6) Caiff y gorchymyn bennu bod rhaid ei adolygu yn unol â threfniadau a bennir yn y gorchymyn.

**157 Penderfyniadau mewn achosion adolygu: hysbysu a chymryd effaith**

- (1) Pan fo panel addasrwydd i ymarfer yn gwaredu achos adolygu mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adrannau 152 i 155, rhaid i GCC roi hysbysiad i'r person cofrestredig o'r penderfyniad o ran gwaredu'r achos.
- (2) Mewn unrhyw achos pan fo'r gwarediad yn dilyn canfyddiad o ran amhariad ar addasrwydd i ymarfer, rhaid i'r hysbysiad a roddir i'r person cofrestredig gynnwys –
  - (a) datganiad o ffeithiau a ganfyddir gan y panel, a
  - (b) rhesymau'r panel dros ei ganfyddiad.
- (3) Mae penderfyniad i waredu achos adolygu mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adrannau 152 i 155, ac eithrio'r gwarediadau hynny a bennir yn is-adran (4), yn cymryd effaith ar unwaith.
- (4) Mae is-adran (5) yn gymwys pan fo panel addasrwydd i ymarfer yn gwaredu achos adolygu mewn unrhyw un neu ragor o'r ffyrdd a bennir yn –
  - (a) adran 152(8),
  - (b) adran 153(6), (7) neu (9),
  - (c) adran 154(6), (7), (8) neu (10), neu
  - (d) adran 155(9) neu (10).
- (5) Rhaid i GCC hefyd roi hysbysiad i'r person cofrestredig o'r hawl i apelio o dan adran 158 yn erbyn y penderfyniad.
- (6) Nid yw penderfyniad i waredu achos adolygu mewn unrhyw un neu ragor o'r ffyrdd a bennir yn is-adran (4) yn cymryd effaith –
  - (a) tan ddiwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r diwrnod yr hysbyswyd y person cofrestredig am y penderfyniad, neu
  - (b) os gwneir apêl o fewn y cyfnod hwnnw, hyd nes bod yr apêl yn cael ei thynnu'n ôl, ei therfynu neu ei gwrthod.

- (b) the period for which the order is to have effect, which must not exceed 3 years; but see section 153 regarding extensions of that period on review.
- (3) The order may specify –
  - (a) that it must be reviewed in accordance with arrangements specified in the order;
  - (b) different conditions that have effect for different periods; but this is subject to the limit mentioned in subsection (2)(b).
- (4) Subsections (5) and (6) apply to a suspension order made under section 152(8)(d) or 153(9)(c).
- (5) The order must specify the period for which it is to have effect, which must not exceed 3 years; but see section 154 regarding extensions of that period on review.
- (6) The order may specify that it must be reviewed in accordance with arrangements specified in the order.

### **157 Decisions in review cases: notification and taking effect**

- (1) Where a fitness to practise panel disposes of a review case in any of the ways specified in sections 152 to 155, SCW must give notice to the registered person of the decision as to the disposal of the case.
- (2) In any case where the disposal follows a finding as to impairment of fitness to practise, the notice given to the registered person must include –
  - (a) a statement of facts found by the panel, and
  - (b) the panel's reasons for its finding.
- (3) A decision to dispose of a review case in any of the ways specified in sections 152 to 155, except those disposals specified in subsection (4), takes effect immediately.
- (4) Subsection (5) applies where a fitness to practise panel disposes of a review case in any of the ways specified in –
  - (a) section 152(8),
  - (b) section 153(6), (7) or (9),
  - (c) section 154(6), (7), (8) or (10), or
  - (d) section 155(9) or (10).
- (5) SCW must also give notice to the registered person of the right of appeal under section 158 against the decision.
- (6) A decision to dispose of a review case in any of the ways specified in subsection (4) does not take effect until –
  - (a) the end of the period of 28 days beginning with the day on which the registered person was notified of the decision, or
  - (b) if an appeal is made within that period, the appeal is withdrawn, discontinued or dismissed.

- (7) Mae is-adran (8) yn gymwys—
- (a) pan fo person cofrestredig yn ddarostyngedig i orchymyn cofrestru amodol o dan adran 138(7), 152(8)(c), 153(6) neu (7), 154(8)(c) neu 155(10)(c), a
  - (b) pan fo panel addasrwydd i ymarfer yn gwaredu achos adolygu mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adran 153(6), (7) neu (9)(c) neu (d) ("y penderfyniad").
- (8) Mae cofrestriad amodol y person cofrestredig o dan y gorchymyn fel y'i crybwyllir yn is-adran (7)(a) yn parhau i gael effaith—
- (a) hyd nes bod y penderfyniad yn cymryd effaith yn unol ag is-adran (6), neu
  - (b) hyd nes bod apêl yn erbyn y penderfyniad yn cael ei chadarnhau,
- er gwaethaf y ffaith y byddai'r cofrestriad amodol, pe na bai am yr is-adran hon, yn peidio â chael effaith cyn y dyddiad hwnnw.
- (9) Pan fo person cofrestredig yn ddarostyngedig i orchymyn cofrestru amodol fel y'i crybwyllir yn is-adran (7)(a) a bod panel addasrwydd i ymarfer yn gwaredu achos adolygu drwy estyn cyfnod y gorchymyn cofrestru amodol o dan adran 153(7)(c) mae'r cyfnod estynedig hwnnw o gofrestrriad amodol i gael ei drin fel pe bai wedi dechrau ar y dyddiad y byddai'r cyfnod blaenorol o gofrestrriad amodol, pe na bai am is-adran (8), wedi peidio â chael effaith.
- (10) Mae is-adran (11) yn gymwys—
- (a) pan fo person cofrestredig yn ddarostyngedig i orchymyn atal dros dro o dan adran 138(8), 152(8)(d), 153(9)(c) neu 154(6) neu (7), neu orchymyn atal dros dro amhenodol o dan adran 154(10) neu 155(9), a
  - (b) pan fo panel addasrwydd i ymarfer yn gwaredu achos adolygu mewn unrhyw un neu ragor o'r ffyrdd a bennir yn adran 154(6), (7), (8)(c) neu (d) neu (10) neu 155(10)(c) ("y penderfyniad").
- (11) Mae ataliad dros dro'r person cofrestredig o dan y gorchymyn fel y'i crybwyllir yn is-adran (10)(a) yn parhau i gael effaith—
- (a) hyd nes bod y penderfyniad yn cymryd effaith yn unol ag is-adran (6), neu
  - (b) hyd nes bod apêl yn erbyn y penderfyniad yn cael ei chadarnhau,
- er gwaethaf y ffaith y byddai'r ataliad dros dro, pe na bai am yr is-adran hon, yn peidio â chael effaith cyn y dyddiad hwnnw.
- (12) Pan fo person cofrestredig yn ddarostyngedig i orchymyn atal dros dro o dan adran 138(8), 152(8)(d), 153(9)(c) neu 154(6) neu (7) a bod panel addasrwydd i ymarfer yn gwaredu achos adolygu drwy estyn cyfnod y gorchymyn atal dros dro o dan adran 154(7)(a) mae'r cyfnod estynedig hwnnw o ataliad dros dro i gael ei drin fel pe bai wedi dechrau ar y dyddiad y byddai'r cyfnod blaenorol o ataliad dros dro, pe na bai am is-adran (11), wedi peidio â chael effaith.

- (7) Subsection (8) applies where –
- (a) a registered person is subject to a conditional registration order under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c), and
  - (b) a fitness to practise panel disposes of a review case in any of the ways specified in section 153(6), (7) or (9)(c) or (d) (“the decision”).
- (8) The registered person’s conditional registration under the order as mentioned in subsection (7)(a) continues to have effect until –
- (a) the decision takes effect in accordance with subsection (6), or
  - (b) an appeal against the decision is upheld,
- despite the fact that, were it not for this subsection, the conditional registration would cease to have effect before that date.
- (9) Where a registered person is subject to a conditional registration order as mentioned in subsection (7)(a) and a fitness to practise panel disposes of a review case by extending the period of the conditional registration order under section 153(7)(c) that extended period of conditional registration is to be treated as having started on the date on which the previous period of conditional registration would, were it not for subsection (8), have ceased to have had effect.
- (10) Subsection (11) applies where –
- (a) a registered person is subject to a suspension order under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7), or an indefinite suspension order under section 154(10) or 155(9), and
  - (b) a fitness to practise panel disposes of a review case in any of the ways specified in section 154(6), (7), (8)(c) or (d) or (10) or 155(10)(c) (“the decision”).
- (11) The registered person’s suspension under the order as mentioned in subsection (10)(a) continues to have effect until –
- (a) the decision takes effect in accordance with subsection (6), or
  - (b) an appeal against the decision is upheld,
- despite the fact that, were it not for this subsection, the suspension would cease to have effect before that date.
- (12) Where a registered person is subject to a suspension order under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7) and a fitness to practise panel disposes of a review case by extending the period of the suspension order under section 154(7)(a) that extended period of suspension is to be treated as having started on the date on which the previous period of suspension would, were it not for subsection (11), have ceased to have had effect.

**PENNOD 6****APELAU AC ATGYFEIRIADAU I'R TRIBIWNLYS****158 Apelau yn erbyn penderfyniadau panel addasrwydd i ymarfer**

- (1) Mae'r adran hon yn gymwys pan fo panel addasrwydd i ymarfer –
  - (a) ar ôl dyfarnu bod amhariad ar addasrwydd person cofrestredig i ymarfer (“canfyddiad o amhariad”), yn penderfynu peidio â chymryd unrhyw gamau pellach o dan adran 138(5);
  - (b) yn dilyn canfyddiad o amhariad, yn rhoi rhybudd o dan adran 138(6);
  - (c) yn dilyn canfyddiad o amhariad, yn gwneud gorchymyn cofrestru amodol o dan adran 138(7);
  - (d) yn dilyn canfyddiad o amhariad, yn gwneud gorchymyn atal dros dro o dan adran 138(8);
  - (e) yn dilyn canfyddiad o amhariad, yn gwneud gorchymyn dileu o dan adran 138(9);
  - (f) yn dilyn canfyddiad o amhariad, yn gwneud penderfyniad mewn achos adolygu o dan adran 152(8) (gwarediadau yn dilyn adolygiad o ymgymeriadau);
  - (g) yn dilyn canfyddiad o amhariad, yn gwneud penderfyniad mewn achos adolygu o dan adran 153(6), (7) neu (9) (gwarediadau yn dilyn adolygiad o orchymyn cofrestru amodol);
  - (h) yn dilyn canfyddiad o amhariad, yn gwneud penderfyniad mewn achos adolygu o dan adran 154(6), (7), (8) neu (10) (gwarediadau yn dilyn adolygiad o orchymyn atal dros dro);
  - (i) yn gwneud penderfyniad mewn achos adolygu o dan adran 155(9) neu (10) (gwarediadau yn dilyn adolygiad o orchymyn atal dros dro amhenodol).
- (2) Caiff y person y gwnaed penderfyniad o fath a restrir yn is-adran (1) mewn cysylltiad ag ef apelio i'r tribiwnlys yn erbyn y penderfyniad.
- (3) Rhaid i apêl gael ei dwyn o fewn y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r diwrnod y rhoddir hysbysiad o'r penderfyniad i'r person o dan sylw.
- (4) Ond caiff y tribiwnlys ganiatáu i apêl gael ei gwneud iddo ar ôl diwedd y cyfnod a grybwyllir yn is-adran (3) os yw wedi ei fodloni bod rheswm da dros y methiant i apelio cyn diwedd y cyfnod hwnnw (a thros unrhyw oedi cyn gwneud cais am ganiatâd i apelio ar ôl yr amser priodol).
- (5) Ar apêl o dan yr adran hon, caiff y tribiwnlys –
  - (a) cadarnhau'r penderfyniad,
  - (b) rhoi penderfyniad arall y gallai'r panel addasrwydd i ymarfer fod wedi ei wneud yn lle'r penderfyniad y gwneir apêl yn ei erbyn, neu
  - (c) anfon yr achos yn ôl i GCC i'w waredu yn unol â chyfarwyddydau'r tribiwnlys.

## CHAPTER 6

### APPEALS AND REFERRALS TO THE TRIBUNAL

#### 158 Appeals against decisions of a fitness to practise panel

- (1) This section applies where a fitness to practise panel –
  - (a) having determined that a registered person’s fitness to practise is impaired (“a finding of impairment”), makes a decision to take no further action under section 138(5);
  - (b) following a finding of impairment, gives a warning under section 138(6);
  - (c) following a finding of impairment, makes a conditional registration order under section 138(7);
  - (d) following a finding of impairment, makes a suspension order under section 138(8);
  - (e) following a finding of impairment, makes a removal order under section 138(9);
  - (f) following a finding of impairment, makes a decision in a review case under section 152(8) (disposals following review of undertakings);
  - (g) following a finding of impairment, makes a decision in a review case under section 153(6), (7) or (9) (disposals following review of conditional registration order);
  - (h) following a finding of impairment, makes a decision in a review case under section 154(6), (7), (8) or (10) (disposals following review of suspension order);
  - (i) makes a decision in a review case under section 155(9) or (10) (disposals following review of indefinite suspension order).
- (2) The person in respect of whom a decision of a kind listed in subsection (1) was made may appeal against the decision to the tribunal.
- (3) An appeal must be brought within the period of 28 days beginning with the day on which notice of the decision is given to the person concerned.
- (4) But the tribunal may allow an appeal to be made to it after the end of the period mentioned in subsection (3) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay in applying for permission to appeal out of time).
- (5) On an appeal under this section, the tribunal may –
  - (a) confirm the decision,
  - (b) substitute for the decision appealed against another decision that the fitness to practise panel could have made, or
  - (c) remit the case to SCW to dispose of in accordance with the directions of the tribunal.



**PENNOD 7****CYFFREDINOL AC ATODOL****159 Datgelu gwybodaeth am addasrwydd i ymarfer**

Caiff GCC gyhoeddi neu ddatgelu i unrhyw berson wybodaeth sy'n ymwneud ag addasrwydd person cofrestredig i ymarfer os yw'n meddwl ei bod er budd y cyhoedd i wneud hynny.

**160 Pŵer i'w gwneud yn ofynnol i wybodaeth gael ei darparu**

(1) At ddiben cyflawni swyddogaethau o dan y Rhan hon, caiff GCC ei gwneud yn ofynnol i—

- (a) person cofrestredig, neu
- (b) unrhyw berson arall (ac eithrio un o Weinidogion y Goron),

y mae GCC yn meddwl ei fod yn gallu cyflenwi gwybodaeth neu gyflwyno unrhyw ddogfen y mae'n ymddangos ei bod yn berthnasol i arfer unrhyw swyddogaeth o'r fath, gyflenwi'r wybodaeth honno neu gyflwyno'r ddogfen honno.

(2) Caiff GCC, yn benodol, ei gwneud yn ofynnol i'r person cofrestredig yr ymchwilir i'w addasrwydd i ymarfer, ddarparu manylion unrhyw berson—

- (a) y cyflogir y person cofrestredig fel gweithiwr gofal cymdeithasol ganddo;
- (b) sydd â threfniant â'r person cofrestredig i'r person cofrestredig ddarparu gwasanaethau i drydydd parti yn rhinwedd ei swydd fel gweithiwr gofal cymdeithasol.

(3) Nid oes dim byd yn yr adran hon sy'n ei gwneud yn ofynnol, neu sy'n caniatáu, unrhyw ddatgeliad o wybodaeth a waherddir drwy unrhyw ddeddfiad neu reol gyfreithiol arall.

(4) Ond pan fo gwybodaeth yn cael ei chadw ar ffurf y mae'r gwaharddiad yn gweithredu ynddi oherwydd bod yr wybodaeth yn gallu golygu bod modd adnabod unigolyn, caiff GCC ei gwneud yn ofynnol i'r wybodaeth gael ei rhoi ar ffurf nad yw'n gallu golygu bod modd adnabod yr unigolyn hwnnw.

(5) Os yw person yn methu â chyflenwi unrhyw wybodaeth neu gyflwyno unrhyw ddogfen o fewn 14 o ddiwrnodau, neu gyfnod hwy y mae GCC yn ei bennu, i'r diwrnod y mae'n ofynnol i'r person wneud hynny o dan yr adran hon, caiff GCC wneud cais i'r tribiwnlys am orchymyn sy'n ei gwneud yn ofynnol i'r wybodaeth gael ei chyflenwi neu i'r ddogfen gael ei chyflwyno.

**161 Cyhoeddi penderfyniadau addasrwydd i ymarfer**

(1) Rhaid i GCC gyhoeddi penderfyniad panel addasrwydd i ymarfer i wneud gwarediad cydsyniol o fater o dan adran 135 neu 136.

(2) Rhaid i GCC gyhoeddi penderfyniad panel addasrwydd i ymarfer i waredu achos o dan adran 137 (gwarediad yn dilyn canfyddiad o ddim amhariad ar addasrwydd i ymarfer).

(3) Rhaid i GCC gyhoeddi penderfyniad panel addasrwydd i ymarfer i waredu achos o dan adran 138 (gwarediad yn dilyn canfyddiad o amhariad ar addasrwydd i ymarfer).

## CHAPTER 7

### GENERAL AND SUPPLEMENTARY

#### **159 Disclosure of information about fitness to practise**

SCW may publish or disclose to any person information relating to a registered person's fitness to practise if it thinks it to be in the public interest to do so.

#### **160 Power to require information**

- (1) For the purpose of carrying out functions under this Part, SCW may require –
  - (a) a registered person, or
  - (b) any other person (other than a Minister of the Crown),who SCW thinks is able to supply information or produce any document which appears relevant to the exercise of any such function, to supply that information or produce that document.
- (2) SCW may, in particular, require the registered person whose fitness to practise is being investigated, to provide details of any person –
  - (a) by whom the registered person is employed as a social care worker;
  - (b) who has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker.
- (3) Nothing in this section requires or permits any disclosure of information which is prohibited by any enactment or other rule of law.
- (4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, SCW may require that the information be put in a form which is not capable of identifying that individual.
- (5) If a person fails to supply any information or produce any document within 14 days, or such longer period as SCW may specify, of the person being required to do so under this section, SCW may apply to the tribunal for an order requiring the information to be supplied or the document to be produced.

#### **161 Publication of fitness to practise decisions**

- (1) SCW must publish a decision of a fitness to practise panel to make a consensual disposal of a matter under section 135 or 136.
- (2) SCW must publish a decision of a fitness to practise panel to dispose of a case under section 137 (disposal following a finding of no impairment of fitness to practise).
- (3) SCW must publish a decision of a fitness to practise panel to dispose of a case under section 138 (disposal following a finding of impaired fitness to practise).

- (4) Rhaid i GCC gyhoeddi penderfyniad panel addasrwydd i ymarfer i waredu achosion adolygu mewn unrhyw un neu ragor o'r ffyrdd a grybwyllir yn adrannau 152 i 155.
- (5) Rhaid i GCC gyhoeddi penderfyniad panel addasrwydd i ymarfer i wneud gorchymyn effaith ar unwaith o dan adran 140.
- (6) Rhaid i GCC gyhoeddi'r penderfyniadau a ganlyn gan banel gorchymynion interim neu banel addasrwydd i ymarfer –
  - (a) penderfyniad i wneud gorchymyn interim o dan adran 144;
  - (b) penderfyniad i gadarnhau neu amrywio gorchymyn interim yn sgil adolygiad o dan adran 147.
- (7) Rhaid i GCC gyhoeddi unrhyw benderfyniad y mae'n ei wneud –
  - (a) i ddyroddi rhybudd o dan adran 126(3)(c) (pwerau GCC pan na fo'r achos yn cael ei atgyfeirio i banel addasrwydd i ymarfer),
  - (b) i gytuno ar ymgymeriadau o dan adran 126(3)(d), neu
  - (c) i ganiatáu cais i ddileu cofnod o'r gofrestr drwy gytundeb o dan adran 126(3)(e).
- (8) Mae is-adrannau (1) i (7) yn ddarostyngedig i is-adrannau (9) a (10).
- (9) Nid yw'n ofynnol i GCC gyhoeddi unrhyw benderfyniad gan banel addasrwydd i ymarfer i beidio â chymryd unrhyw gamau pellach mewn cysylltiad â pherson cofrestredig o dan adran 137(2), 138(5), 152(8)(a), 153(9)(a), 154(8)(a) neu 155(10)(a); ond caiff wneud hynny.
- (10) Rhaid i GCC beidio â chyhoeddi unrhyw wybodaeth am iechyd corfforol neu iechyd meddwl person.

## **162 Canllawiau ynghylch addasrwydd i ymarfer**

- (1) Caiff GCC gyhoeddi canllawiau ynghylch ffactorau a all, yn ei farn ef, ei gwneud yn briodol, neu'n amhriodol, i banel addasrwydd i ymarfer neu banel gorchymynion interim wneud neu gadarnhau gorchymyn interim o dan Bennod 4.
- (2) Rhaid i banel addasrwydd i ymarfer neu banel gorchymynion interim roi sylw i ganllawiau a gyhoeddir o dan is-adran (1) wrth arfer unrhyw swyddogaeth o dan Bennod 4.
- (3) Caiff GCC gyhoeddi canllawiau ynghylch ffactorau a all, yn ei farn ef, ei gwneud yn briodol, neu'n amhriodol, i banel addasrwydd i ymarfer wneud unrhyw un neu ragor o'r canlynol –
  - (a) cyrraedd gwarediad cydsyniol o fater o dan adran 135 neu 136;
  - (b) rhoi cyngor neu rybudd o dan adran 137;
  - (c) gwaredu unrhyw fater mewn unrhyw un neu ragor o'r ffyrdd a grybwyllir yn adran 138(3) i (9);
  - (d) gwneud gorchymyn effaith ar unwaith o dan adran 140;
  - (e) gwaredu mater yn sgil adolygiad mewn unrhyw un neu ragor o'r ffyrdd a grybwyllir yn adrannau 152 i 155.

- (4) SCW must publish a decision of a fitness to practise panel to dispose of a review cases in any of the ways mentioned in sections 152 to 155.
- (5) SCW must publish a decision of a fitness to practise panel to make an immediate order under section 140.
- (6) SCW must publish the following decisions of an interim orders panel or a fitness to practise panel –
  - (a) a decision to make an interim order under section 144;
  - (b) a decision to confirm or vary an interim order on a review under section 147.
- (7) SCW must publish any decision it makes –
  - (a) to issue a warning under section 126(3)(c) (powers of SCW where case is not referred to a fitness to practise panel),
  - (b) to agree undertakings under section 126(3)(d), or
  - (c) to grant an application for removal from the register by agreement under section 126(3)(e).
- (8) Subsections (1) to (7) are subject to subsections (9) and (10).
- (9) SCW is not required to publish any decision of a fitness to practise panel to take no further action in respect of a registered person under section 137(2), 138(5), 152(8)(a), 153(9)(a), 154(8)(a) or 155(10)(a); but it may do so.
- (10) SCW must not publish any information about a person's physical or mental health.

## **162 Guidance about fitness to practise**

- (1) SCW may publish guidance about factors which in its view may make it appropriate, or inappropriate, for a fitness to practise panel or an interim orders panel to make or confirm an interim order under Chapter 4.
- (2) A fitness to practise panel or an interim orders panel must have regard to guidance published under subsection (1) in exercising any function under Chapter 4.
- (3) SCW may publish guidance about factors which in its view may make it appropriate, or inappropriate, for a fitness to practise panel to do any of the following –
  - (a) reach a consensual disposal of a matter under section 135 or 136;
  - (b) give advice or a warning under section 137;
  - (c) dispose of any matter in any of the ways mentioned in section 138(3) to (9);
  - (d) make an immediate order under section 140;
  - (e) dispose of a matter on review in any of the ways mentioned in sections 152 to 155.

- (4) Caiff GCC gyhoeddi canllawiau ynghylch—
- (a) ymgymeriadau penodol, neu fathau penodol o ymgymeriadau, y caniateir i banel addasrwydd i ymarfer gytuno arnynt, a pha bryd y gall fod yn briodol neu'n amhriodol cytuno ar yr ymgymeriadau hynny;
  - (b) amodau penodol, neu fathau penodol o amodau, y caniateir eu cynnwys mewn gorchymyn cofrestru amodol, a pha bryd y gall fod yn briodol neu'n amhriodol cynnwys yr amodau hynny;
  - (c) y cyfnod o amser y dylai unrhyw un neu ragor o'r canlynol gael effaith ar ei gyfer—
    - (i) ymgymeriadau;
    - (ii) amodau a gynhwysir mewn gorchymyn cofrestru amodol;
    - (iii) gorchymyn atal dros dro.
- (5) Caiff GCC gyhoeddi canllawiau ynghylch ffactorau y mae'n meddwl y dylid eu hystyried wrth ddyfarnu pa un a oes amhariad ar addasrwydd person cofrestredig i ymarfer ar sail iechyd corfforol neu iechyd meddwl andwyol ai peidio.
- (6) Rhaid i banel addasrwydd i ymarfer roi sylw i ganllawiau a gyhoeddir o dan is-adrannau (3) i (5) wrth arfer unrhyw swyddogaeth o dan y Rhan hon.

### **163 Atal dros dro: atodol**

- (1) Mae'r adran hon yn gymwys mewn cysylltiad â pherson sy'n ddarostyngedig—
- (a) i orchymyn atal dros dro a wneir o dan adran 138(8) (gwarediadau gan banel addasrwydd i ymarfer: canfyddiad o amhariad);
  - (b) i orchymyn atal dros dro a wneir, a gadarnheir neu a amrywir yn sgil adolygiad o dan adran 152(8)(d), 153(9)(c) neu 154(6) neu (7);
  - (c) i orchymyn atal dros dro amhenodol a wneir neu a gadarnheir yn sgil adolygiad o dan adran 154(10) neu 155(9);
  - (d) i orchymyn atal dros dro interim a wneir, a gadarnheir neu a amrywir o dan adran 144 neu 147.
- (2) Mae'r person i'w drin at bob diben ac eithrio'r rhai a grybwyllir yn is-adran (3) fel pe na bai wedi ei gofrestru yn y gofrestr er gwaethaf y ffaith bod enw'r person yn parhau i ymddangos ynddi.
- (3) Mae'r person i'w drin fel pe bai wedi ei gofrestru at ddiben—
- (a) unrhyw achosion o dan y Rhan hon (gan gynnwys ystyriaeth ragarweiniol neu ymchwiliad o dan Bennod 2) sy'n ymwneud ag addasrwydd y person i ymarfer;
  - (b) cais a wneir o dan reolau o dan adran 92 i gofnod gael ei ddileu o ran o'r gofrestr drwy gytundeb;
  - (c) achosion o dan adran 94 (cofnodion sy'n seiliedig ar wybodaeth anwir neu gamarweiniol) sy'n ymwneud â chofnod mewn rhan o'r gofrestr.

- (4) SCW may publish guidance about—
  - (a) particular undertakings, or kinds of undertakings, which may be agreed by a fitness to practise panel, and when it may be appropriate or inappropriate to agree such undertakings;
  - (b) particular conditions, or kinds of conditions, which may be included in a conditional registration order, and when it may be appropriate or inappropriate to include such conditions;
  - (c) the period of time for which any of the following should have effect—
    - (i) undertakings;
    - (ii) conditions included in a conditional registration order;
    - (iii) a suspension order.
- (5) SCW may publish guidance about factors which it thinks should be taken into account in determining whether or not a registered person's fitness to practise is impaired on the grounds of adverse physical or mental health.
- (6) A fitness to practise panel must have regard to guidance published under subsections (3) to (5) in exercising any function under this Part.

### **163 Suspension: supplementary**

- (1) This section applies in respect of a person who is subject to—
  - (a) a suspension order made under section 138(8) (disposals by fitness to practise panel: finding of impairment);
  - (b) a suspension order made, confirmed or varied on review under section 152(8)(d), 153(9)(c) or 154(6) or (7);
  - (c) an indefinite suspension order made or confirmed on review under section 154(10) or 155(9);
  - (d) an interim suspension order made, confirmed or varied under section 144 or 147.
- (2) The person is to be treated for all purposes other than those mentioned in subsection (3) as not being registered in the register despite the fact that the person's name continues to appear in it.
- (3) The person is to be treated as registered for the purpose of—
  - (a) any proceedings under this Part (including preliminary consideration or investigation under Chapter 2) which relate to the person's fitness to practise;
  - (b) an application made under rules under section 92 for removal from a part of the register by agreement;
  - (c) proceedings under section 94 (entries based on false or misleading information) which relate to an entry in a part of the register.

**164 Ystyr “person cofrestredig” yn Rhan 6**

Yn y Rhan hon, ystyr “person cofrestredig” yw person sydd wedi ei gofrestru yn y rhan gweithwyr cymdeithasol, mewn rhan ychwanegol neu yn y rhan ymwelwyr Ewropeaidd o’r gofrestr; ac mae’n cynnwys person –

- (a) y byddai ei gofrestriad wedi darfod o dan adran 87(1) oni bai am y ffaith bod is-adran (2) o’r adran honno yn gymwys i’r person;
- (b) y mae gorchymyn atal dros dro yn cael effaith mewn cysylltiad ag ef o dan adran 138(8), 152(8)(d), 153(9)(c), 154(6), (7) neu (10) neu 155(9);
- (c) y mae gorchymyn atal dros dro interim yn cael effaith mewn cysylltiad ag ef o dan adran 144 neu 147.

**RHAN 7**

**GORCHMYNION SY’N GWAHARDD GWAITH MEWN GOFAL CYMDEITHASOL:  
PERSONAU ANGHOFRESTREDIG**

**165 Dynodi gweithgaredd rheoleiddiedig**

- (1) Caiff Gweinidogion Cymru drwy reoliadau –
  - (a) dynodi gweithgaredd y mae is-adran (2) yn gymwys iddo fel gweithgaredd rheoleiddiedig at ddibenion y Rhan hon, a
  - (b) awdurdodi i orchmynion gwahardd gael eu gwneud mewn cysylltiad â’r gweithgaredd rheoleiddiedig.
- (2) Y gweithgareddau y mae’r is-adran hon yn gymwys iddynt yw –
  - (a) ymarfer fel gweithiwr gofal cymdeithasol o ddisgrifiad rhagnodedig;
  - (b) cyflawni gweithgaredd rhagnodedig fel gweithiwr gofal cymdeithasol;
  - (c) y defnydd gan unigolyn o deitl rhagnodedig sy’n ymwneud â gweithgaredd o fewn paragraff (a) neu (b).
- (3) Yn is-adran (2) nid yw’r cyfeiriadau at “gweithiwr gofal cymdeithasol” yn cynnwys cyfeiriad at –
  - (a) gweithiwr cymdeithasol, neu
  - (b) gweithiwr gofal cymdeithasol o ddisgrifiad a bennir am y tro drwy reoliadau o dan adran 80(1)(b) (disgrifiadau o weithiwr gofal cymdeithasol y mae GCC yn cadw rhan ychwanegol o’r gofrestr mewn cysylltiad â hwy).
- (4) Yn y Rhan hon ystyr “gorchymyn gwahardd” yw gorchymyn a wneir gan panel addasrwydd i ymarfer sy’n gwahardd person rhag cyflawni gweithgaredd rheoleiddiedig.
- (5) Cyn gwneud rheoliadau o dan yr adran hon rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy’n briodol yn eu barn hwy.
- (6) Ond nid yw’r gofyniad i ymgynghori yn gymwys i reoliadau –
  - (a) sy’n diwygio rheoliadau eraill a wneir o dan yr adran hon, a

**164 Meaning of “registered person” in Part 6**

In this Part “registered person” means a person who is registered in the social worker part, an added part or the visiting European part of the register; and it includes a person—

- (a) whose registration would have lapsed under section 87(1) but for the fact that subsection (2) of that section applies to the person;
- (b) in respect of whom a suspension order has effect under section 138(8), 152(8)(d), 153(9)(c), 154(6), (7) or (10) or 155(9);
- (c) in respect of whom an interim suspension order has effect under section 144 or 147.

**PART 7****ORDERS PROHIBITING WORK IN SOCIAL CARE: UNREGISTERED PERSONS****165 Designation of regulated activity**

- (1) The Welsh Ministers may by regulations—
  - (a) designate an activity to which subsection (2) applies as a regulated activity for the purposes of this Part, and
  - (b) authorise the making of prohibition orders in respect of the regulated activity.
- (2) The activities to which this subsection applies are—
  - (a) practising as a social care worker of a prescribed description;
  - (b) carrying out a prescribed activity as a social care worker;
  - (c) the use by an individual of a prescribed title relating to an activity within paragraph (a) or (b).
- (3) In subsection (2) references to “social care worker” do not include a reference to—
  - (a) a social worker, or
  - (b) a social care worker of a description specified for the time being by regulations under section 80(1)(b) (descriptions of social care worker in respect of whom SCW keeps an added part of the register).
- (4) In this Part “prohibition order” means an order made by a fitness to practise panel prohibiting a person from carrying out a regulated activity.
- (5) Before making regulations under this section the Welsh Ministers must consult any persons they think appropriate.
- (6) But the requirement to consult does not apply to regulations which—
  - (a) amend other regulations made under this section, and



- (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

**166 Amodau ar gyfer gwneud gorchymyn gwahardd**

- (1) Rhaid i reoliadau a wneir o dan adran 165 ragnodi'r amgylchiadau pan gaiff panel addasrwydd i ymarfer wneud gorchymyn gwahardd.
- (2) Caiff y rheoliadau, yn benodol, ddarparu na chaiff panel wneud gorchymyn gwahardd mewn cysylltiad â pherson oni bai bod un neu ragor o'r amodau a ganlyn wedi eu bodloni—
  - (a) bod y person wedi ei gollfarnu o drosedd o fath rhagnodedig;
  - (b) bod y person wedi cael rhybuddiad mewn cysylltiad â throedd o fath rhagnodedig;
  - (c) bod y person wedi ei gynnwys ar restr wahardd;
  - (d) bod corff perthnasol wedi gwneud dyfarniad i'r perwyl bod amhariad ar addasrwydd y person i ymarfer;
  - (e) bod y panel wedi ei fodloni bod y person wedi methu â chyrraedd unrhyw safon ymddygiad a bennir o dan adran 173;
  - (f) bod y panel yn meddwl bod gwneud y gorchymyn yn angenrheidiol er mwyn amddiffyn y cyhoedd, neu fod hynny fel arall er budd y cyhoedd.
- (3) Yn is-adran (2) mae i "corff perthnasol" a "rhestr wahardd" yr un ystyr ag yn adran 117 (seiliau amhariad ar addasrwydd i ymarfer).

**167 Gorchymynion gwahardd interim**

- (1) Rhaid i reoliadau o dan adran 165 awdurdodi i orchymynion gwahardd interim gael eu gwneud.
- (2) Mae gorchymyn gwahardd interim yn orchymyn a wneir gan banel addasrwydd i ymarfer sy'n gwahardd person rhag cyflawni gweithgaredd rheoleiddiedig wrth aros am benderfyniad o ran pa un ai i wneud gorchymyn gwahardd ai peidio.
- (3) Rhaid i'r rheoliadau ddarparu na chaiff panel wneud gorchymyn gwahardd interim oni bai ei fod yn meddwl bod gwneud gorchymyn ar frys yn angenrheidiol er mwyn amddiffyn y cyhoedd, neu fod hynny fel arall er budd y cyhoedd.

**168 Gorchymynion gwahardd: darpariaeth atodol**

Caiff Gweinidogion Cymru drwy reoliadau—

- (a) gwneud darpariaeth o ran yr amser pan fydd gorchymyn gwahardd yn cymryd effaith;
- (b) gwneud darpariaeth ynghylch yr adolygiad o orchymyn gwahardd gan banel addasrwydd i ymarfer, gan gynnwys—
  - (i) yr amgylchiadau y caniateir i orchymyn gwahardd gael ei adolygu odanynt,
  - (ii) y weithdrefn ar gyfer gwneud cais am adolygiad,

- (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

#### **166 Conditions for making a prohibition order**

- (1) Regulations made under section 165 must prescribe the circumstances in which a fitness to practise panel may make a prohibition order.
- (2) The regulations may, in particular, provide that a panel may not make a prohibition order in respect of a person unless one or more of the following conditions is met –
  - (a) the person has been convicted of an offence of a prescribed kind;
  - (b) the person has been given a caution in respect of an offence of a prescribed kind;
  - (c) the person is included in a barred list;
  - (d) a relevant body has made a determination to the effect that the person's fitness to practise is impaired;
  - (e) the panel is satisfied that the person has failed to meet any standard of conduct specified under section 173;
  - (f) the panel thinks that it is necessary for the protection of the public, or that it is otherwise in the public interest, to make the order.
- (3) In subsection (2) "barred list" and "relevant body" have the same meaning as in section 117 (grounds of impairment of fitness to practise).

#### **167 Interim prohibition orders**

- (1) Regulations under section 165 must authorise the making of interim prohibition orders.
- (2) An interim prohibition order is an order made by a fitness to practise panel prohibiting a person from carrying out a regulated activity pending a decision as to whether or not to make a prohibition order.
- (3) The regulations must provide that a panel may not make an interim prohibition order unless it thinks that it is necessary for the protection of the public, or is otherwise in the public interest, to make the order as a matter of urgency.

#### **168 Prohibition orders: supplementary provision**

The Welsh Ministers may by regulations –

- (a) make provision as to the time when a prohibition order takes effect;
- (b) make provision about the review of a prohibition order by a fitness to practise panel, including –
  - (i) the circumstances in which a prohibition order may be reviewed,
  - (ii) the procedure for applying for a review,

- (iii) amseriad adolygiad, a
- (iv) pwerau'r panel mewn adolygiad (gan gynnwys pŵer i neilltuo'r gorchymyn gwahardd);
- (c) ei gwneud yn ofynnol i GCC gyhoeddi gwybodaeth ragnodedig ynghylch dyfarniadau a wneir gan baneli addasrwydd i ymarfer mewn cysylltiad â gorchymynion gwahardd a gorchymynion gwahardd interim;
- (d) ei gwneud yn ofynnol i GCC roi gwybodaeth ragnodedig o'r fath ar gael—
  - (i) i bersonau o ddisgrifiad penodedig, neu
  - (ii) er mwyn i'r cyhoedd edrych arni.

### **169 Gorchymynion gwahardd interim: adolygu**

- (1) Rhaid i banel addasrwydd i ymarfer adolygu gorchymyn gwahardd interim cyn gynted ag y bo'n ymarferol—
  - (a) os yw'r person y gwneir y gorchymyn mewn cysylltiad ag ef yn gofyn am adolygiad, a
  - (b) os gofynnir am yr adolygiad heb fod yn gynharach na 3 mis ar ôl y dyddiad y gwnaed y gorchymyn.
- (2) Os adolygir gorchymyn gwahardd interim o dan is-adran (1), rhaid i banel addasrwydd i ymarfer adolygu'r gorchymyn o fewn pob cyfnod dilynol o 3 mis sy'n dechrau â dyddiad yr adolygiad o dan yr is-adran honno.
- (3) Caiff panel addasrwydd i ymarfer adolygu gorchymyn gwahardd interim ar unrhyw adeg os daw tystiolaeth newydd ar gael sy'n berthnasol i'r achos.
- (4) Yn dilyn adolygiad, caiff y panel neilltuo gorchymyn gwahardd interim.

### **170 Apelau**

- (1) Rhaid i reoliadau o dan adran 165 ddarparu ar gyfer hawl i apelio i'r tribiwnlys yn erbyn—
  - (a) gorchymyn gwahardd;
  - (b) penderfyniad i beidio â neilltuo gorchymyn gwahardd mewn adolygiad;
  - (c) penderfyniad i beidio â neilltuo gorchymyn gwahardd interim mewn adolygiad.
- (2) Caiff rheoliadau o dan yr adran hon gynnwys darpariaeth o ran—
  - (a) y cyfnod y caniateir i apêl gael ei gwneud ynddo;
  - (b) ar ba seiliau y caniateir i apêl gael ei gwneud;
  - (c) y weithdrefn ar gyfer gwneud apêl;
  - (d) pwerau'r tribiwnlys ar apêl.

### **171 Troseddau**

- (1) Mae'n drosedd i berson fethu â chydymffurfio â—
  - (a) gorchymyn gwahardd, neu
  - (b) gorchymyn gwahardd interim.

- (iii) the timing of a review, and
- (iv) the powers of the panel on a review (including power to set aside the prohibition order);
- (c) require SCW to publish prescribed information about determinations made by fitness to practise panels in respect of prohibition orders and interim prohibition orders;
- (d) require SCW to make such prescribed information available –
  - (i) to persons of a specified description, or
  - (ii) for public inspection.

### **169 Interim prohibition orders: review**

- (1) A fitness to practise panel must review an interim prohibition order as soon as practicable if –
  - (a) the person in respect of whom the order is made requests a review, and
  - (b) the request is made no earlier than 3 months after the date on which the order was made.
- (2) If an interim prohibition order is reviewed under subsection (1), a fitness to practise panel must review the order within each subsequent period of 3 months beginning with the date of the review under that subsection.
- (3) A fitness to practise panel may review an interim prohibition order at any time if new evidence becomes available which is relevant to the case.
- (4) Following a review, the panel may set aside an interim prohibition order.

### **170 Appeals**

- (1) Regulations under section 165 must provide for a right of appeal to the tribunal against –
  - (a) a prohibition order;
  - (b) a decision not to set aside a prohibition order on a review;
  - (c) a decision not to set aside an interim prohibition order on a review.
- (2) Regulations under this section may include provision as to –
  - (a) the period within which an appeal may be made;
  - (b) the grounds on which an appeal may be made;
  - (c) the procedure for making an appeal;
  - (d) the powers of the tribunal on appeal.

### **171 Offences**

- (1) It is an offence for a person to fail to comply with –
  - (a) a prohibition order, or
  - (b) an interim prohibition order.

- (2) Mae person sy'n cyflawni trosedd o dan is-adran (1) yn agored ar gollfarn ddiannod i ddirwy.
- (3) Caiff Gweinidogion Cymru drwy reoliadau greu troseddau diannod sy'n ymwneud â chyflogi neu benodi person i wneud unrhyw beth y gwaherddir y person rhag ei wneud drwy –
  - (a) gorchymyn gwahardd, neu
  - (b) gorchymyn gwahardd interim.
- (4) Ni chaiff rheoliadau sy'n creu trosedd ddarparu i'r drosedd fod yn drosedd y gellir ei chosbi ac eithrio drwy ddirwy (pa un a yw'r ddirwy yn ddirwy ddiderfyn neu'n ddirwy nad yw'n fwy na lefel benodedig ar y raddfa safonol).

*Darpariaeth atodol*

**172 Rhestr o bersonau sydd wedi eu gwahardd**

- (1) Rhaid i GCC sefydlu a chynnal rhestr o bersonau y mae gorchymyn gwahardd neu orchymyn gwahardd interim yn cael effaith mewn cysylltiad â hwy.
- (2) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth ynghylch –
  - (a) ffurf a chynnwys y rhestr;
  - (b) pa un a yw'r rhestr, neu wybodaeth benodedig o'r rhestr, i'w chyhoeddi ai peidio;
  - (c) rhoi'r rhestr ar gael –
    - (i) i bersonau o ddisgrifiad penodedig, neu
    - (ii) er mwyn i'r cyhoedd edrych arni.

**173 Safonau ymddygiad**

- (1) Caiff Gweinidogion Cymru drwy reoliadau ei gwneud yn ofynnol i GCC benderfynu ar y safonau ymddygiad a ddisgwylir oddi wrth berson sy'n cyflawni gweithgaredd rheoleiddiedig.
- (2) O ran GCC –
  - (a) rhaid iddo gadw'r safonau o dan adolygiad, a
  - (b) caiff newid neu ddisodli'r safonau.
- (3) Rhaid i GCC gyhoeddi –
  - (a) y safonau, a
  - (b) os caiff y safonau eu newid neu eu disodli, y safonau sydd wedi eu newid neu'r safonau newydd.
- (4) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch y weithdrefn i'w dilyn wrth benderfynu ar y safonau.
- (5) Caiff rheolau a wneir o dan is-adran (4), yn benodol –
  - (a) gwneud darpariaeth ynghylch y meini prawf y penderfynir ar y safonau drwy gyfeirio atynt;
  - (b) gwneud darpariaeth ynghylch y trefniadau ar gyfer cadw'r safonau o dan adolygiad.

- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine.
- (3) The Welsh Ministers may by regulations create summary offences relating to the employment or appointment of a person to do anything that the person is prohibited from doing by –
  - (a) a prohibition order, or
  - (b) an interim prohibition order.
- (4) Regulations creating an offence may not provide for the offence to be punishable otherwise than by a fine (whether an unlimited fine or a fine not exceeding a specified level on the standard scale).

*Supplementary provision*

**172 List of prohibited persons**

- (1) SCW must establish and maintain a list of persons in respect of whom a prohibition order or an interim prohibition order is in effect.
- (2) The Welsh Ministers may by regulations make provision about –
  - (a) the form and content of the list;
  - (b) whether or not the list, or specified information from the list, is to be published;
  - (c) making the list available –
    - (i) to persons of a specified description, or
    - (ii) for public inspection.

**173 Standards of conduct**

- (1) The Welsh Ministers may by regulations require SCW to determine the standards of conduct expected of a person carrying out a regulated activity.
- (2) SCW –
  - (a) must keep the standards under review, and
  - (b) may alter or replace the standards.
- (3) SCW must publish –
  - (a) the standards, and
  - (b) if the standards are altered or replaced, the altered or replaced standards.
- (4) SCW must by rules make provision about the procedure to be followed in determining the standards.
- (5) Rules made under subsection (4) may, in particular –
  - (a) make provision about the criteria by reference to which the standards are to be determined;
  - (b) make provision about the arrangements for keeping the standards under review.

**RHAN 8****GOFAL CYMDEITHASOL CYMRU: DYLETSSWYDD I SEFYDLU PANELI ETC.****174 Dyletswydd i sefydlu paneli etc.**

- (1) Rhaid i GCC drwy reolau wneud darpariaeth bod –
  - (a) paneli i wneud dyfarniadau o dan Ran 4 mewn perthynas â chofrestru cychwynnol yn y gofrestr, aros arni ac adfer personau iddi (“paneli apelau cofrestru”),
  - (b) paneli i wneud dyfarniadau mewn perthynas ag addasrwydd personau sydd wedi eu cofrestru yn y gofrestr i ymarfer fel gweithwyr gofal cymdeithasol (“paneli addasrwydd i ymarfer”), ac
  - (c) paneli i atal dros dro gofrestriad person yn y gofrestr neu i atodi amodau i’w gofrestriad wrth aros am ddyfarniad gan baneli o’r math a grybwyllir ym mharagraff (a) neu (b) (“paneli gorchmynion interim”).
- (2) Rhaid i banel a sefydlir yn rhinwedd is-adran (1) gael o leiaf 3 aelod, gan gynnwys aelod a benodir i gadeirio’r panel.
- (3) Rhaid i’r aelodau fod yn unigolion.
- (4) Rhaid i aelodaeth panel gael mwyafrif o bersonau nad ydynt wedi eu cofrestru mewn unrhyw ran o’r gofrestr ac nad ydynt erioed wedi eu cofrestru mewn unrhyw ran ohoni.
- (5) Ni chaniateir i’r personau a ganlyn fod yn aelodau o banel –
  - (a) person sy’n aelod neu’n aelod o staff –
    - (i) GCC,
    - (ii) Cyngor y Proffesiynau Iechyd a Gofal,
    - (iii) Cyngor Gwasanaethau Cymdeithasol yr Alban, neu
    - (iv) Cyngor Gofal Cymdeithasol Gogledd Iwerddon;
  - (b) person rhagnodedig.
- (6) Rhaid i GCC drwy reolau wneud darpariaeth ynghylch –
  - (a) penodi personau yn aelodau o banel (gan gynnwys, yn ddarostyngedig i is-adran (2), nifer y personau y caniateir iddynt gael eu penodi neu y mae rhaid eu penodi);
  - (b) y cworwm ar gyfer arfer swyddogaethau’r paneli;
  - (c) tymor swydd person fel aelod neu gadeirydd panel;
  - (d) y seiliau ar gyfer atal aelod o’i swydd dros dro neu ei symud o’i swydd.
- (7) Rhaid i GCC hefyd drwy reolau wneud darpariaeth ar gyfer –
  - (a) datgan a chofrestru buddiannau preifat aelodau paneli;
  - (b) cyhoeddi cofnodion a gofnodwyd yn y gofrestr o fuddiannau aelodau.
- (8) Caiff GCC drwy reolau wneud darpariaeth arall ynghylch cyfansoddiad a gweithrediad paneli; ond mae unrhyw reolau yn ddarostyngedig i reoliadau a wneir o dan adran 175 (reoliadau ynghylch achosion panel).

## PART 8

### SOCIAL CARE WALES: DUTY TO ESTABLISH PANELS ETC.

#### 174 Duty to establish panels etc.

- (1) SCW must by rules make provision for there to be –
  - (a) panels to make determinations under Part 4 in relation to initial registration in, remaining on and being restored to, the register (“registration appeals panels”),
  - (b) panels to make determinations in relation to the fitness of persons registered in the register to practise as social care workers (“fitness to practise panels”), and
  - (c) panels to suspend, or attach conditions to, a person’s registration in the register pending a determination by panels of the kind mentioned in paragraph (a) or (b) (“interim orders panels”).
- (2) A panel established by virtue of subsection (1) must have at least 3 members, including a member appointed to chair the panel.
- (3) The members must be individuals.
- (4) A panel’s membership must comprise a majority of persons who are not, and have never been, registered in any part of the register.
- (5) The following persons may not be members of a panel –
  - (a) a person who is a member or a member of staff of –
    - (i) SCW,
    - (ii) the Health and Care Professions Council,
    - (iii) the Scottish Social Services Council, or
    - (iv) the Northern Ireland Social Care Council;
  - (b) a prescribed person.
- (6) SCW must by rules make provision about –
  - (a) the appointment of persons as panel members (including, subject to subsection (2), the number of persons who may or must be appointed);
  - (b) the quorum for exercising functions of panels;
  - (c) the term of office of a person as a member or to chair a panel;
  - (d) the grounds on which a member may be suspended or removed.
- (7) SCW must also by rules make provision for –
  - (a) the declaration and registration of private interests of the members of panels;
  - (b) the publication of entries recorded in the register of members’ interests.
- (8) SCW may by rules make other provision about the constitution and operation of panels; but any rules are subject to regulations made under section 175 (regulations about panel proceedings).



- (9) Yn benodol, caiff rheolau o dan is-adran (8) ddarparu ar gyfer –
- (a) penodi cynghorwyr cyfreithiol neu gynghorwyr eraill;
  - (b) penodi aseswyr neu archwilwyr;
  - (c) categorïau o berson y caniateir iddynt gael eu penodi i gadeirio paneli;
  - (d) ffioedd, treuliau neu daliadau eraill sydd i'w gwneud gan GCC i unrhyw aelod o banel.

**175 Achosion gerbron paneli**

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud unrhyw ddarpariaeth sy'n briodol yn eu barn hwy ar gyfer achosion ac mewn cysylltiad ag achosion sydd wedi eu dwyn o dan y Ddeddf hon gerbron –
- (a) paneli apelau cofrestru;
  - (b) paneli gorchmynion interim;
  - (c) paneli addasrwydd i ymarfer.
- (2) Caiff y rheoliadau awdurdodi GCC neu ei gwneud yn ofynnol i GCC wneud rheolau ynghylch unrhyw fater sy'n ymwneud ag achosion o'r fath.
- (3) Ni chaiff rheoliadau o dan yr adran hon ei gwneud yn ofynnol i berson roi tystiolaeth neu gyflwyno dogfen neu dystiolaeth berthnasol arall na allai'r person gael ei orfodi i'w rhoi neu ei chyflwyno mewn achosion sifil mewn llys yng Nghymru a Lloegr.
- (4) Safon y prawf sy'n gymwys i'r achosion a grybwyllir yn is-adran (1) yw'r un sy'n gymwys i achosion sifil.

**RHAN 9**

**CYDWEITHREDU A CHYDWEITHIO GAN Y CYRFF RHEOLEIDDIOL ETC.**

**176 Y cyrff rheoleiddiol**

Yn y Rhan hon –

- (a) y cyrff rheoleiddiol yw –
  - (i) Gweinidogion Cymru, a
  - (ii) GCC;
- (b) ystyr "swyddogaethau perthnasol" yw –
  - (i) mewn perthynas â Gweinidogion Cymru, eu swyddogaethau rheoleiddiol;
  - (ii) mewn perthynas â GCC, ei swyddogaethau o dan y Ddeddf hon;
- (c) ystyr "amcanion cyffredinol" yw –
  - (i) mewn perthynas â Gweinidogion Cymru, yr amcanion a grybwyllir yn adran 4;
  - (ii) mewn perthynas â GCC, yr amcan a grybwyllir yn adran 68(1).

- (9) In particular, rules under subsection (8) may provide for –
- (a) the appointment of legal or other advisers;
  - (b) the appointment of assessors or examiners;
  - (c) categories of person who may be appointed to chair panels;
  - (d) fees, expenses or other payments to be made by SCW to any panel member.

**175 Proceedings before panels**

- (1) The Welsh Ministers may by regulations make such provision as they think appropriate for and in connection with proceedings brought under this Act before –
- (a) registration appeals panels;
  - (b) interim orders panels;
  - (c) fitness to practise panels.
- (2) The regulations may authorise or require SCW to make rules about any matter relating to such proceedings.
- (3) Regulations under this section may not require a person to give evidence or produce a document or other material evidence which the person could not be compelled to give or produce in civil proceedings in a court in England and Wales.
- (4) The standard of proof applicable to the proceedings mentioned in subsection (1) is that applicable to civil proceedings.

**PART 9**

**CO-OPERATION AND JOINT WORKING BY THE REGULATORY BODIES ETC.**

**176 The regulatory bodies**

In this Part –

- (a) the regulatory bodies are –
  - (i) the Welsh Ministers, and
  - (ii) SCW;
- (b) “relevant functions” means –
  - (i) in relation to the Welsh Ministers, their regulatory functions;
  - (ii) in relation to SCW, its functions under this Act;
- (c) “general objectives” means –
  - (i) in relation to the Welsh Ministers, the objectives mentioned in section 4;
  - (ii) in relation to SCW, the objective mentioned in section 68(1).

**177 Awdurdodau perthnasol**

- (1) Yn y Rhan hon yr awdurdodau perthnasol yw –
  - (a) Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru,
  - (b) Cyngor y Gweithlu Addysg,
  - (c) pob awdurdod lleol,
  - (d) pob Bwrdd Iechyd Lleol,
  - (e) Ymddiriedolaeth GIG,
  - (f) awdurdod tân ac achub Cymreig,
  - (g) Cyngor Iechyd Cymuned, ac
  - (h) unrhyw berson arall a ragnodir.
- (2) Yn is-adran (1) –
  - (a) ystyr “Ymddiriedolaeth GIG” yw Ymddiriedolaeth Gwasanaeth Iechyd Gwladol sydd wedi ei chyfansoddi o dan Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42);
  - (b) ystyr “awdurdod tân ac achub Cymreig” yw awdurdod yng Nghymru sydd wedi ei gyfansoddi drwy gynllun o dan adran 2 o Ddeddf Gwasanaethau Tân ac Achub 2004 (p.21) neu gynllun y mae adran 4 o’r Ddeddf honno yn gymwys iddo;
  - (c) ystyr “Cyngor Iechyd Cymuned” yw Cyngor Iechyd Cymuned sy’n parhau neu a sefydlwyd o dan adran 182 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42).

**178 Cydweithredu wrth arfer swyddogaethau**

- (1) Rhaid i’r corff rheoleiddiol gydweithredu â’i gilydd wrth arfer eu swyddogaethau perthnasol os ydynt yn meddwl y bydd cydweithredu o’r fath –
  - (a) yn cael effaith gadarnhaol ar y modd y caiff y swyddogaethau hynny eu harfer, neu
  - (b) yn eu helpu i gyflawni eu hamcanion cyffredinol.
- (2) Rhaid i gorff rheoleiddiol, wrth arfer ei swyddogaethau perthnasol, geisio cydweithredu ag awdurdod perthnasol os yw’r corff rheoleiddiol yn meddwl y bydd cydweithredu o’r fath –
  - (a) yn cael effaith gadarnhaol ar y modd y mae’r corff yn arfer ei swyddogaethau, neu
  - (b) yn helpu’r corff i gyflawni ei amcanion cyffredinol.
- (3) Pan fo corff rheoleiddiol yn gofyn am gydweithrediad awdurdod perthnasol o dan is-adran (2) rhaid i’r awdurdod gydymffurfio â’r cais oni bai –
  - (a) bod yr awdurdod wedi ei atal rhag cydweithredu yn y modd y gofynnir amdano drwy unrhyw ddeddfiad neu reol gyfreithiol arall,
  - (b) bod yr awdurdod yn meddwl y byddai cydweithredu o’r fath fel arall yn anghydnaws â’i swyddogaethau ei hun, neu

**177 Relevant authorities**

- (1) In this Part the relevant authorities are –
  - (a) Her Majesty’s Chief Inspector for Education and Training in Wales,
  - (b) the Education Workforce Council,
  - (c) each local authority,
  - (d) each Local Health Board,
  - (e) an NHS Trust,
  - (f) a Welsh fire and rescue authority,
  - (g) a Community Health Council, and
  - (h) such other person as may be prescribed.
- (2) In subsection (1) –
  - (a) “NHS Trust” means a National Health Service Trust constituted under the National Health Service (Wales) Act 2006 (c.42);
  - (b) “Welsh fire and rescue authority” means an authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c.21) or a scheme to which section 4 of that Act applies;
  - (c) “Community Health Council” means a Community Health Council continued or established under section 182 of the National Health Service (Wales) Act 2006 (c.42).

**178 Co-operation in the exercise of functions**

- (1) The regulatory bodies must co-operate with each other in the exercise of their relevant functions if they think that such co-operation –
  - (a) will have a positive effect on the manner in which those functions are exercised, or
  - (b) will assist them in achieving their general objectives.
- (2) A regulatory body must, in the exercise of its relevant functions, seek to co-operate with a relevant authority if the regulatory body thinks such co-operation –
  - (a) will have a positive effect on the manner in which the body exercises its functions,  
or
  - (b) will assist the body in achieving its general objectives.
- (3) Where a regulatory body requests the co-operation of a relevant authority under subsection (2) the authority must comply with the request unless the authority –
  - (a) is prevented from co-operating in the manner requested by any enactment or other rule of law,
  - (b) thinks that such co-operation would otherwise be incompatible with its own functions, or

- (c) bod yr awdurdod yn meddwl y byddai cydweithredu o'r fath yn cael effaith andwyol ar ei swyddogaethau.
- (4) Os yw awdurdod perthnasol yn gofyn am gydweithrediad corff rheoleiddiol, rhaid i'r corff gydymffurfio â'r cais hwnnw oni bai—
  - (a) bod y corff wedi ei atal rhag cydweithredu yn y modd y gofynnir amdano drwy unrhyw ddeddfiad (gan gynnwys y Ddeddf hon) neu reol gyfreithiol arall,
  - (b) bod y corff yn meddwl y byddai cydweithredu o'r fath fel arall yn anghydnaws â swyddogaethau'r corff rheoleiddiol ei hun, neu
  - (c) bod y corff yn meddwl y byddai cydweithredu o'r fath yn cael effaith andwyol—
    - (i) ar swyddogaethau'r corff, neu
    - (ii) ar gyflawni amcanion cyffredinol y corff.

### **179 Arfer swyddogaethau ar y cyd**

- (1) Caiff un corff rheoleiddiol ("A") drefnu gyda'r corff rheoleiddiol arall ("B") i A a B weithredu gyda'i gilydd wrth arfer ar y cyd un neu ragor o swyddogaethau perthnasol A gydag un neu ragor o swyddogaethau perthnasol B.
- (2) Ni chaiff corff rheoleiddiol ymrwymo i drefniant o dan yr adran hon ond os yw'n meddwl y bydd y trefniant—
  - (a) yn cael effaith gadarnhaol ar y modd y mae'r corff yn arfer y swyddogaeth, neu
  - (b) yn helpu'r corff i gyflawni ei amcanion cyffredinol.
- (3) Caiff trefniadau o dan yr adran hon—
  - (a) cynnwys sefydlu cyd-bwyllgor er mwyn arfer y cyd-swyddogaethau perthnasol ar ran y cyrff rheoleiddiol, a
  - (b) bod ar unrhyw delerau ac amodau eraill (gan gynnwys telerau o ran tâl) y cytunir arnynt rhwng y cyrff rheoleiddiol.

### **180 Dirprwyo swyddogaethau i gorff rheoleiddiol arall**

- (1) Caiff corff rheoleiddiol ddirprwyo unrhyw un neu ragor o'i swyddogaethau perthnasol i'r corff rheoleiddiol arall os ydynt yn cytuno y bydd dirprwyo o'r fath—
  - (a) yn cael effaith gadarnhaol ar y modd y mae'r swyddogaeth i'w harfer, neu
  - (b) yn helpu'r corff sy'n dirprwyo i gyflawni ei amcanion cyffredinol.
- (2) Ond ni chaniateir i swyddogaeth gael ei dirprwyo i'r corff rheoleiddiol arall os yw'r corff arall yn meddwl y gall dirprwyo o'r fath fod yn niweidiol—
  - (a) i'r modd y mae'r corff arall yn arfer ei swyddogaethau, neu
  - (b) i gyflawni amcanion cyffredinol y corff arall.
- (3) Er gwaethaf is-adran (1), ni chaiff GCC ddirprwyo—
  - (a) ei swyddogaethau gwneud rheolau, neu
  - (b) ei swyddogaethau sy'n ymwneud ag achosion addasrwydd i ymarfer.

- (c) thinks that such co-operation would have an adverse effect on its functions.
- (4) If a relevant authority requests the co-operation of a regulatory body, the body must comply with that request unless the body –
  - (a) is prevented from co-operating in the manner requested by any enactment (including this Act) or other rule of law,
  - (b) thinks that such co-operation would otherwise be incompatible with the regulatory body's own functions, or
  - (c) thinks that such co-operation would have an adverse effect –
    - (i) on the body's functions, or
    - (ii) on achieving the body's general objectives.

### 179 **Joint exercise of functions**

- (1) One regulatory body ("A") may arrange with the other regulatory body ("B") for A and B to act together in exercising jointly one or more relevant functions of A with one or more relevant functions of B.
- (2) A regulatory body may enter into an arrangement under this section only if it thinks that the arrangement –
  - (a) will have a positive effect on the manner in which the body exercises the function, or
  - (b) will assist the body in achieving its general objectives.
- (3) Arrangements under this section may –
  - (a) include the establishment of a joint committee to exercise the relevant joint functions on behalf of the regulatory bodies, and
  - (b) be on such other terms and conditions (including terms as to payment) as may be agreed between the regulatory bodies.

### 180 **Delegating functions to another regulatory body**

- (1) A regulatory body may delegate any of its relevant functions to the other regulatory body if they agree that such a delegation –
  - (a) will have a positive effect on the manner in which the function is to be exercised, or
  - (b) will assist the delegating body in achieving its general objectives.
- (2) But a function must not be delegated to the other regulatory body if the other body thinks that such a delegation may be detrimental to –
  - (a) the manner in which the other body exercises its functions, or
  - (b) the achievement of the other body's general objectives.
- (3) Despite subsection (1), SCW may not delegate –
  - (a) its rule-making functions, or
  - (b) its functions relating to fitness to practise proceedings.

- (4) Caiff dirprwyo o dan is-adran (1) fod ar unrhyw delerau ac amodau (gan gynnwys telerau o ran tâl) y cytunir arnynt rhwng y cyrff rheoleiddiol.
- (5) Chaniateir i swyddogaeth gael ei dirprwyo o dan is-adran (1) yn gyfan gwbl neu i unrhyw raddau llai y cytunir arnynt gan y cyrff rheoleiddiol.
- (6) Nid yw dirprwyo o dan is-adran (1) yn effeithio –
  - (a) ar unrhyw atebolrwydd neu gyfrifoldeb sydd gan y corff sy'n dirprwyo'r swyddogaeth am ei harfer, nac
  - (b) ar allu'r corff hwnnw i arfer y swyddogaeth honno neu i wneud trefniadau eraill mewn perthynas â hi.

### **181 Rhannu gwybodaeth**

- (1) Caiff corff rheoleiddiol ddarparu gwybodaeth i gorff rheoleiddiol arall neu awdurdod perthnasol yn unol â threfniant a wneir o dan y Rhan hon i gydweithredu, i arfer swyddogaethau ar y cyd neu i ddirprwyo swyddogaethau.
- (2) Ni chaniateir i wybodaeth gael ei darparu o dan is-adran (1) i gorff rheoleiddiol neu awdurdod perthnasol os yw'r person sydd â'r wybodaeth wedi ei wahardd rhag ei darparu drwy unrhyw ddeddfiad neu reol gyfreithiol arall.
- (3) Yn achos gwybodaeth sy'n ymwneud ag unigolyn, ni chaniateir i'r wybodaeth gael ei darparu i gorff rheoleiddiol neu awdurdod perthnasol oni bai –
  - (a) bod yr wybodaeth wedi ei darparu ar ffurf sy'n golygu nad oes modd adnabod yr unigolyn, neu
  - (b) bod y person sydd â'r wybodaeth yn cael cydsyniad yr unigolyn i'w darparu.
- (4) At ddibenion is-adran (3)(a), mae gwybodaeth i'w thrin fel pe bai ar ffurf sy'n golygu bod modd adnabod unigolyn os gellir adnabod yr unigolyn o gyfuniad –
  - (a) o'r wybodaeth, a
  - (b) o wybodaeth arall a ddarperir i gorff rheoleiddiol neu awdurdod perthnasol gan yr un corff rheoleiddiol.
- (5) Ni chaniateir i wybodaeth a ddarperir yn unol â threfniant o dan y Rhan hon gael ei defnyddio gan y person y darperir yr wybodaeth iddo ond at ddibenion cydweithredu, arfer swyddogaethau ar y cyd neu arfer swyddogaethau dirprwyedig yn unol â'r trefniant.
- (6) Nid yw'r adran hon yn effeithio ar ddyletswydd y cyrff rheoleiddiol i ddatgelu gwybodaeth at ddibenion diogelu llesiant unigolyn.

### **182 Rhannu gwybodaeth er mwyn diogelu llesiant**

- (1) Rhaid i gorff rheoleiddiol ddatgelu gwybodaeth y mae wedi ei chael wrth arfer ei swyddogaethau perthnasol i unrhyw berson arall os yw'n meddwl bod datgeliad o'r fath yn angenrheidiol neu'n hwylus er mwyn diogelu llesiant unigolyn yng Nghymru.
- (2) Ond ni chaniateir i wybodaeth gael ei datgelu o dan is-adran (1) os yw datgelu'r wybodaeth wedi ei wahardd drwy unrhyw ddeddfiad neu reol gyfreithiol arall.

- (4) A delegation under subsection (1) may be on such terms and conditions (including terms as to payment) as may be agreed between the regulatory bodies.
- (5) A function may be delegated under subsection (1) wholly or to any lesser extent as may be agreed by the regulatory bodies.
- (6) A delegation under subsection (1) does not affect—
  - (a) any liability or responsibility of the body delegating the function for its exercise, nor
  - (b) the ability of that body to exercise that function or make other arrangements in relation to it.

**181 Sharing information**

- (1) A regulatory body may provide information to another regulatory body or relevant authority in pursuance of an arrangement made under this Part to co-operate, jointly exercise functions or delegate functions.
- (2) Information must not be provided under subsection (1) to a regulatory body or relevant authority if the person holding the information is prohibited from providing it by any enactment or other rule of law.
- (3) In the case of information relating to an individual, the information may be provided to a regulatory body or relevant authority only if—
  - (a) the information is provided in a form which does not identify the individual, or
  - (b) the person holding the information obtains the individual's consent to provide it.
- (4) For the purposes of subsection (3)(a), information is to be treated as being in a form which identifies an individual if the individual can be identified from a combination of—
  - (a) the information, and
  - (b) other information provided to a regulatory body or relevant authority by the same regulatory body.
- (5) Information provided in pursuance of an arrangement under this Part must be used by the person to whom it is provided only for the purposes of co-operating, jointly exercising functions or exercising delegated functions in pursuance of the arrangement.
- (6) This section does not affect the duty of the regulatory bodies to disclose information for the purposes of protecting the well-being of an individual.

**182 Sharing information to protect well-being**

- (1) A regulatory body must disclose information it has obtained in the exercise of its relevant functions to any other person if it thinks that such disclosure is necessary or expedient to protect the well-being of an individual in Wales.
- (2) But information must not be disclosed under subsection (1) if disclosure of the information is prohibited by any enactment or other rule of law.



- (3) Yn achos gwybodaeth sy'n golygu bod modd adnabod unigolyn, ni chaniateir iddi gael ei datgelu mewn modd sy'n golygu y gellir adnabod yr unigolyn ond os yw'r corff rheoleiddiol yn meddwl bod adnabod yr unigolyn yn angenrheidiol er mwyn diogelu llesiant unrhyw unigolyn.
- (4) At ddibenion is-adran (3), mae gwybodaeth i'w thrin fel pe bai ar ffurf sy'n golygu bod modd adnabod unigolyn os gellir adnabod yr unigolyn o gyfuniad –
  - (a) o'r wybodaeth, a
  - (b) o wybodaeth arall a ddatgelir gan y corff rheoleiddiol i'r person arall y cyfeirir ato yn is-adran (1).

## RHAN 10

### AMRYWIOL A CHYFFREDINOL

#### 183 Ymchwiliadau

- (1) Caiff Gweinidogion Cymru beri i ymchwiliad gael ei gynnal i unrhyw fater sy'n gysylltiedig â darparu gofal a chymorth.
- (2) Cyn i ymchwiliad ddechrau, caiff Gweinidogion Cymru gyfarwyddo ei fod i'w gynnal yn breifat.
- (3) Os na roddir cyfarwyddyd, caiff y person sy'n cynnal yr ymchwiliad benderfynu cynnal yr ymchwiliad, neu ran ohono, yn breifat.
- (4) Mae is-adrannau (2) i (5) o adran 250 o Ddeddf Llywodraeth Leol 1972 (p.70) (pwerau mewn perthynas ag ymchwiliadau lleol) yn gymwys mewn perthynas ag ymchwiliad o dan yr adran hon fel y maent yn gymwys mewn perthynas ag ymchwiliad lleol o dan yr adran honno.
- (5) Rhaid cyhoeddi adroddiad y person sy'n cynnal yr ymchwiliad oni bai bod Gweinidogion Cymru yn meddwl bod amgylchiadau eithriadol dros beidio â'i gyhoeddi (neu unrhyw ran ohono).

#### 184 Cyflwyno dogfennau etc.

- (1) Mae'r adran hon yn gymwys pan fo darpariaeth yn y Ddeddf hon neu mewn rheoliadau neu reolau a wneir odani yn ei gwneud yn ofynnol (ar ba delerau bynnag) i Weinidogion Cymru, GCC neu'r cofrestrydd –
  - (a) hysbysu person am rywbeth, neu
  - (b) rhoi hysbysiad neu ddogfen arall i berson (gan gynnwys copi o ddogfen neu ddogfen ddiwygiedig).
- (2) Caniateir rhoi'r hysbysiad neu'r ddogfen i'r person o dan sylw –
  - (a) drwy ddosbarthu'r hysbysiad neu'r ddogfen â llaw i'r person;
  - (b) drwy adael yr hysbysiad neu'r ddogfen yng nghyfeiriad cywir y person;
  - (c) drwy anfon yr hysbysiad neu'r ddogfen drwy'r gwasanaeth danfon cofnodedig –
    - (i) i gyfeiriad cywir y person, neu

- (3) In the case of information identifying an individual, it may be disclosed in a manner which identifies the individual only if the regulatory body thinks such identification is necessary to protect the well-being of any individual.
- (4) For the purposes of subsection (3), information is to be treated as being in a form which identifies an individual if the individual can be identified from a combination of –
  - (a) the information, and
  - (b) other information disclosed by the regulatory body to the other person referred to in subsection (1).

## PART 10

### MISCELLANEOUS AND GENERAL

#### 183 Inquiries

- (1) The Welsh Ministers may cause an inquiry to be held into any matter connected with the provision of care and support.
- (2) Before an inquiry begins, the Welsh Ministers may direct that it is to be held in private.
- (3) If no direction is given, the person holding the inquiry may decide to hold it, or any part of it, in private.
- (4) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (c.70) (powers in relation to local inquiries) apply in relation to an inquiry under this section as they apply in relation to a local inquiry under that section.
- (5) The report of the person holding the inquiry must be published unless the Welsh Ministers think there are exceptional circumstances for not publishing it (or any part of it).

#### 184 Service of documents etc.

- (1) This section applies where a provision of this Act or of regulations or rules made under it requires (in whatever terms) the Welsh Ministers, SCW or the registrar –
  - (a) to notify a person of something, or
  - (b) to give a notice or other document to a person (including a copy of a document or a revised document).
- (2) The notification or document may be given to the person in question –
  - (a) by being hand delivered to the person;
  - (b) by leaving it at the person's proper address;
  - (c) by being sent by recorded delivery service –
    - (i) to the person's proper address, or

- (ii) pan fo'r person o dan sylw yn ddarparwr gwasanaeth, i gyfeiriad man y mae'r darparwr yn darparu gwasanaeth rheoleiddiedig ynddo neu ohono;
- (d) os yw is-adran (3) yn gymwys, drwy anfon yr hysbysiad neu'r ddogfen yn electronig i gyfeiriad a ddarperir at y diben hwnnw.
- (3) Mae'r is-adran hon yn gymwys os yw'r person y mae'r hysbysiad i'w roi iddo neu y mae'r ddogfen i'w rhoi iddo wedi cytuno i gael yr hysbysiad neu'r ddogfen ar ffurf electronig.
- (4) At ddibenion is-adran (2)(a), caniateir dosbarthu â llaw hysbysiad neu ddogfen a roddir i gorff corfforaethol drwy roi'r hysbysiad neu'r ddogfen i ysgrifennydd neu glerc y corff hwnnw.
- (5) At ddibenion is-adran (2)(b), pan adewir hysbysiad neu ddogfen yng nghyfeiriad cywir y person mae i'w drin fel pe bai'r hysbysiad wedi ei roi neu'r ddogfen wedi ei rhoi ar yr amser y gadawyd yr hysbysiad neu'r ddogfen yn y cyfeiriad hwnnw.
- (6) Yn is-adran (2)(c), ystyr "gwasanaeth danfon cofnodedig" yw –
  - (a) gwasanaeth eitemau cofrestredig fel y diffinnir "registered items service" yn adran 32(4) o Ddeddf Gwasanaethau Post 2011 (p.5), neu
  - (b) unrhyw wasanaeth post arall sy'n darparu ar gyfer cofnodi'r dosbarthiad.
- (7) At ddibenion is-adran (2), cyfeiriad cywir person yw –
  - (a) yn achos corff corfforaethol, cyfeiriad swyddfa gofrestrdedig neu brif swyddfa'r corff;
  - (b) yn achos partneriaeth, cyfeiriad prif swyddfa'r bartneriaeth;
  - (c) yn achos awdurdod lleol, cyfeiriad swyddfa cyfarwyddwr gwasanaethau cymdeithasol yr awdurdod;
  - (d) mewn unrhyw achos arall, cyfeiriad hysbys olaf y person.
- (8) Pan roddir hysbysiad neu ddogfen fel y'i crybwyllir yn is-adran (2)(c) neu (d) rhaid barnu bod yr hysbysiad wedi ei gael neu'r ddogfen wedi ei chael 48 awr ar ôl anfon yr hysbysiad neu'r ddogfen oni ddangosir i'r gwrthwyneb.
- (9) Gweler adran 2 am ystyr "gwasanaeth rheoleiddiedig", adran 3 am ystyr "darparwr gwasanaeth" ac adran 81 am ystyr "cofrestrydd".

## RHAN 11

### DARPARIAETHAU TERFYNOL

#### 185 **Mân ddiwygiadau a diwygiadau canlyniadol**

Mae Atodlen 3 yn gwneud mân ddiwygiadau a diwygiadau canlyniadol.

#### 186 **Pŵer i wneud darpariaeth ganlyniadol etc.**

- (1) Caiff Gweinidogion Cymru drwy reoliadau wneud unrhyw ddarpariaeth ganlyniadol, gysylltiedig, drosiannol, ddarfodol neu arbed sy'n briodol yn eu barn hwy at ddibenion y Ddeddf hon neu mewn cysylltiad â hi.

- (ii) where the person in question is a service provider, to the address of a place at or from which the provider provides a regulated service;
- (d) if subsection (3) applies, by sending it electronically to an address provided for that purpose.
- (3) This subsection applies if the person to whom the notification or document is to be given has agreed to receive it electronically.
- (4) For the purposes of subsection (2)(a), notification or a document given to a body corporate may be hand delivered by being given to the secretary or clerk of that body.
- (5) For the purposes of subsection (2)(b), where a notification or document is left at a person's proper address it is to be treated as having been given at the time at which it was left at that address.
- (6) In subsection (2)(c), "recorded delivery service" means—
  - (a) a registered items service as defined in section 32(4) of the Postal Services Act 2011 (c.5), or
  - (b) any other postal service which provides for delivery to be recorded.
- (7) For the purposes of subsection (2), a person's proper address is—
  - (a) in the case of a body corporate, the address of the registered or principal office of the body;
  - (b) in the case of a partnership, the address of the principal office of the partnership;
  - (c) in the case of a local authority, the address of the office of the authority's director of social services;
  - (d) in any other case, the person's last known address.
- (8) Where a notification or document is given as mentioned in subsection (2)(c) or (d) it is to be taken to have been received 48 hours after it is sent unless the contrary is shown.
- (9) See section 2 for the meaning of "regulated service", section 3 for the meaning of "service provider" and section 81 for the meaning of "registrar".

## PART 11

### FINAL PROVISIONS

#### 185 **Minor and consequential amendments**

Schedule 3 makes minor and consequential amendments.

#### 186 **Power to make consequential etc. provision**

- (1) The Welsh Ministers may by regulations make such consequential, incidental, transitional, transitory or saving provision as they think appropriate for the purposes of or in connection with this Act.

- (2) Caiff rheoliadau o dan yr adran hon ddiwygio, dirymu neu ddi-ddymu unrhyw ddeddfiad sydd wedi ei gynnwys mewn deddfwriaeth sylfaenol neu sydd wedi ei wneud odani.
- (3) Mae'r pŵer i wneud rheoliadau o dan yr adran hon yn arferadwy drwy offeryn statudol.
- (4) Ni chaniateir gwneud offeryn statudol sy'n cynnwys rheoliadau o dan yr adran hon sy'n diwygio neu'n diddymu deddfiad sydd wedi ei gynnwys mewn deddfwriaeth sylfaenol oni bai bod drafft o'r offeryn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo ganddo drwy benderfyniad.
- (5) Mae offeryn statudol sy'n cynnwys rheoliadau o dan yr adran hon nad yw is-adran (4) yn gymwys iddo yn ddarostyngedig i ddiddymiad yn unol â phenderfyniad gan Gynulliad Cenedlaethol Cymru.
- (6) Yn yr adran hon, ystyr "deddfwriaeth sylfaenol" yw –
  - (a) Deddf Seneddol;
  - (b) Deddf neu Fesur gan Gynulliad Cenedlaethol Cymru (gan gynnwys y Ddeddf hon).

#### **187 Rheoliadau o dan y Ddeddf hon**

- (1) Mae pŵer i wneud rheoliadau o dan y Ddeddf hon –
  - (a) yn arferadwy drwy offeryn statudol;
  - (b) yn cynnwys pŵer i wneud darpariaeth wahanol at ddibenion gwahanol, ar gyfer achosion gwahanol ac ar gyfer ardaloedd gwahanol.
- (2) Ni chaniateir gwneud offeryn statudol sy'n cynnwys rheoliadau a wneir o dan unrhyw un neu ragor o'r darpariaethau a ganlyn yn y Ddeddf hon oni bai bod drafft o'r offeryn sy'n cynnwys y rheoliadau wedi ei osod gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo ganddo drwy benderfyniad –
  - (a) adran 2(1)(i) (rheoliadau sy'n pennu gwasanaethau gofal a chymorth eraill fel gwasanaethau rheoleiddiedig);
  - (b) adran 2(3) (rheoliadau sy'n rhagnodi pethau nad ydynt i'w trin fel gwasanaethau rheoleiddiedig);
  - (c) adran 3(3) (rheoliadau sy'n rhagnodi pethau nad ydynt i'w trin fel gofal a chymorth);
  - (d) adran 9(9) (rheoliadau sy'n amrywio'r dystiolaeth sydd i'w hystyried wrth ddyfarnu a yw person yn berson addas a phriodol);
  - (e) adran 11(2) (rheoliadau sy'n rhagnodi terfyn amser y mae rhaid gwneud cais i ddynodi unigolyn cyfrifol amnewidiol ynddo);
  - (f) adran 27(1) (rheoliadau sy'n gosod gofynion ar ddarparwyr gwasanaethau);
  - (g) adran 28(1) (rheoliadau sy'n gosod gofynion ar unigolion cyfrifol);
  - (h) adran 37(1) (rheoliadau ynghylch graddau arolygu);
  - (i) adran 40(1) (rheoliadau ynghylch codi ffioedd);
  - (j) adran 45 (rheoliadau sy'n creu troseddau am fethu â chydymffurfio â gofynion a osodir ar ddarparwyr gwasanaethau);

- (2) Regulations under this section may amend, revoke or repeal any enactment contained in, or made under, primary legislation.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing regulations under this section which amend or repeal an enactment contained in primary legislation may not be made unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
- (5) A statutory instrument containing regulations under this section to which subsection (4) does not apply is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (6) In this section, “primary legislation” means –
  - (a) an Act of Parliament;
  - (b) an Act or Measure of the National Assembly for Wales (including this Act).

**187 Regulations under this Act**

- (1) A power to make regulations under this Act –
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make different provision for different purposes, for different cases and for different areas.
- (2) A statutory instrument containing regulations made under any of the following provisions of this Act may not be made unless a draft of the instrument containing the regulations has been laid before and approved by resolution of the National Assembly for Wales –
  - (a) section 2(1)(i) (regulations specifying other care and support services as regulated services);
  - (b) section 2(3) (regulations prescribing things not to be treated as regulated services);
  - (c) section 3(3) (regulations prescribing things not to be treated as care and support);
  - (d) section 9(9) (regulations varying the evidence to be taken into account when determining whether a person is fit and proper);
  - (e) section 11(2) (regulations prescribing a time limit within which an application to designate a replacement responsible individual must be made);
  - (f) section 27(1) (regulations imposing requirements on service providers);
  - (g) section 28(1) (regulations imposing requirements on responsible individuals);
  - (h) section 37(1) (regulations about inspection ratings);
  - (i) section 40(1) (regulations about charging fees);
  - (j) section 45 (regulations creating offences for failure to comply with requirements imposed on service providers);

- (k) adran 46 (rheoliadau sy'n creu troseddau am fethu â chydymffurfio â gofynion a osodir ar unigolion cyfrifol);
  - (l) adrannau 59(1) a (4) a 61(6) a (9) (rheoliadau ynghylch y gyfundrefn trosolwg o'r farchnad);
  - (m) adran 79(2) (rheoliadau sy'n rhagnodi disgrifiadau o bersonau sydd i'w trin fel gweithwyr gofal cymdeithasol);
  - (n) adran 80(1)(b) (rheoliadau sy'n rhagnodi disgrifiadau o weithiwr gofal cymdeithasol y mae rhaid i GCC gadw cofrestr mewn cysylltiad â hwy);
  - (o) adran 111(2) (rheoliadau sy'n rhagnodi teitlau a ddiogelir ar gyfer gweithwyr gofal cymdeithasol ac eithrio gweithwyr cymdeithasol);
  - (p) adran 117 (diwygio ar ba seiliau y caniateir ystyried bod amhariad ar addasrwydd person cofrestredig i ymarfer);
  - (q) adran 130 (trefniadau ar gyfer cyfryngu);
  - (r) adran 136(2)(d) (personau y caniateir i ymgymeriadau gael eu datgelu iddynt gan GCC);
  - (s) adran 142 (diwygio'r ffyrdd y caiff panel addasrwydd i ymarfer waredu materion);
  - (t) adran 165 (dynodi gweithgareddau rheoleiddiedig etc. at ddibenion gorchmynion gwahardd o dan Ran 7);
  - (u) adran 171(3) (creu troseddau mewn perthynas â chyflogi neu benodi personau sy'n ddarostyngedig i orchmynion gwahardd etc.);
  - (v) adran 177(1)(h) (rheoliadau sy'n rhagnodi personau eraill yn awdurdodau perthnasol at ddibenion Rhan 9);
  - (w) paragraff 7 o Atodlen 1 (rheoliadau sy'n pennu gwasanaethau penodol fel gwasanaethau eirioli rheoleiddiedig).
- (3) Mae unrhyw offeryn statudol arall sy'n cynnwys rheoliadau a wneir o dan y Ddeddf hon yn ddarostyngedig i ddiddymiad yn unol â phenderfyniad gan Gynulliad Cenedlaethol Cymru.
- (4) Nid yw'r adran hon yn gymwys i reoliadau a wneir o dan adran 186.

## 188 **Dod i rym**

- (1) Daw darpariaethau'r Ddeddf hon (ac eithrio'r adran hon ac adrannau 186, 187, 189 a 190) i rym ar ddiwrnod a bennir gan Weinidogion Cymru mewn gorchymyn a wneir drwy offeryn statudol.
- (2) Mae'r adran hon ac adrannau 186, 187, 189 a 190 yn dod i rym ar y diwrnod ar ôl y diwrnod y mae'r Ddeddf hon yn cael y Cydsyniad Brenhinol.
- (3) Caiff gorchymyn o dan yr adran hon—
  - (a) pennu diwrnodau gwahanol at ddibenion neu ardaloedd gwahanol;
  - (b) cynnwys unrhyw ddarpariaeth ddarfodol, drosiannol neu arbed sy'n briodol ym marn Gweinidogion Cymru.

- (k) section 46 (regulations creating offences for failure to comply with requirements imposed on responsible individuals);
  - (l) sections 59(1) and (4) and 61(6) and (9) (regulations about the market oversight regime);
  - (m) section 79(2) (regulations prescribing descriptions of persons to be treated as social care workers);
  - (n) section 80(1)(b) (regulations prescribing descriptions of social care worker in respect of whom SCW must keep a register);
  - (o) section 111(2) (regulations prescribing protected titles for social care workers other than social workers);
  - (p) section 117 (amending the grounds on which a registered person's fitness to practise may be regarded as impaired);
  - (q) section 130 (arrangements for mediation);
  - (r) section 136(2)(d) (persons to whom undertakings may be disclosed by SCW);
  - (s) section 142 (amending the ways in which a fitness to practise panel may dispose of matters);
  - (t) section 165 (designation of regulated activities etc. for the purposes of prohibition orders under Part 7);
  - (u) section 171(3) (creation of offences in relation to employment or appointment of persons subject to prohibition orders etc.);
  - (v) section 177(1)(h) (regulations prescribing other persons as relevant authorities for the purposes of Part 9);
  - (w) paragraph 7 of Schedule 1 (regulations specifying certain services as regulated advocacy services).
- (3) Any other statutory instrument containing regulations made under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) This section does not apply to regulations made under section 186.

## 188 **Coming into force**

- (1) The provisions of this Act (except this section and sections 186, 187, 189 and 190) come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (2) This section and sections 186, 187, 189 and 190 come into force on the day after the day on which this Act receives Royal Assent.
- (3) An order under this section may –
  - (a) appoint different days for different purposes or areas;
  - (b) include such transitory, transitional or saving provision as the Welsh Ministers think appropriate.



**189 Dehongli cyffredinol**

Yn y Ddeddf hon—

ystyr “a ragnodir” a “rhagnodedig” (“*prescribed*”) yw wedi ei ragnodi drwy reoliadau a wneir gan Weinidogion Cymru;

ystyr “awdurdod lleol” (“*local authority*”) yw cyngor sir neu gyngor bwrdeistref sirol yng Nghymru;

ystyr “blwyddyn ariannol” (“*financial year*”) yw’r cyfnod o flwyddyn sy’n dechrau ar 1 Ebrill ac sy’n dod i ben ar 31 Mawrth;

ystyr “Bwrdd Iechyd Lleol” (“*Local Health Board*”) yw Bwrdd Iechyd Lleol a sefydlwyd o dan adran 11 o Ddeddf y Gwasanaeth Iechyd (Cymru) 2006;

ystyr “Deddf 2014” (“*the 2014 Act*”) yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4);

mae i “GCC” (“*SCW*”) yr ystyr a roddir gan adran 67;

mae i “llesiant” (“*well-being*”) yr un ystyr ag yn adran 2 o Ddeddf 2014;

ystyr “rhybuddiad” (“*caution*”), mewn perthynas â throredd, yw —

- (a) rhybuddiad amodol a roddir o dan adran 22 o Ddeddf Cyfiawnder Troseddol 2003 (p.44) (rhybuddiadau amodol ar gyfer oedolion) neu o dan adran 66A o Ddeddf Trosedd ac Anrhefn 1998 (p.37) (rhybuddiadau amodol ar gyfer plant a phobl ifanc);
- (b) unrhyw rybuddiad arall a roddir i berson yng Nghymru a Lloegr mewn cysylltiad â throredd a gyfaddefwyd gan y person hwnnw ar yr adeg y rhoddir y rhybuddiad;
- (c) unrhyw beth sy’n cyfateb i rybuddiad sy’n dod o fewn paragraff (a) neu (b) (sut bynnag y’i disgrifir) —
  - (i) a roddir i berson mewn cysylltiad â thramgwydd a gyflawnwyd y tu allan i Gymru a Lloegr a fyddai’n drosedd pe bai wedi ei chyflawni yng Nghymru a Lloegr, a
  - (ii) nad yw’n fesur y caniateir ei roi yn lle erlyniad (o fewn ystyr “*alternative to prosecution*” yn adran 8AA o Ddeddf Adsefydlu Troseddwyr 1974 (p.53));

ystyr “y tribiwnlys” (“*the tribunal*”) yw’r tribiwnlys Haen Gyntaf.

**190 Enw byr**

Enw byr y Ddeddf hon yw Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016.

**189 General interpretation**

In this Act—

“caution” (*“rhybuddiad”*), in relation to an offence, means—

- (a) a conditional caution given under section 22 of the Criminal Justice Act 2003 (c.44) (conditional cautions for adults) or under section 66A of the Crime and Disorder Act 1998 (c.37) (conditional cautions for children and young persons);
- (b) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, that person has admitted;
- (c) anything corresponding to a caution falling within paragraph (a) or (b) (however described) which—
  - (i) is given to a person in respect of an offence committed outside England and Wales which, if committed in England and Wales, would constitute a criminal offence, and
  - (ii) is not an alternative to prosecution (within the meaning of section 8AA of the Rehabilitation of Offenders Act 1974 (c.53));

“financial year” (*“blwyddyn ariannol”*) means the period of one year beginning on 1 April and ending on 31 March;

“local authority” (*“awdurdod lleol”*) means the council of a county or county borough in Wales;

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

“prescribed” (*“a ragnodir”* and *“rhagnodedig”*) means prescribed by regulations made by the Welsh Ministers;

“SCW” (*“GCC”*) has the meaning given by section 67;

“the tribunal” (*“y tribiwnlys”*) means the First-tier tribunal;

“well-being” (*“llesiant”*) has the same meaning as in section 2 of the 2014 Act;

“the 2014 Act” (*“Deddf 2014”*) means the Social Services and Well-Being (Wales) Act 2014 (anaw 4).

**190 Short title**

The short title of this Act is the Regulation and Inspection of Social Care (Wales) Act 2016.

## ATODLEN 1

*(fel y'i cyflwynwyd gan adran 2(2))*

## GWASANAETHAU RHEOLEIDDIEDIG: DIFFINIADAU

*Gwasanaethau cartrefi gofal*

- 1 (1) "Gwasanaeth cartref gofal" yw'r ddarpariaeth o lety, ynghyd â nyrsio neu ofal mewn man yng Nghymru, i bersonau oherwydd eu hyglwyfedd neu eu hangen.
- (2) Ond nid yw llety ynghyd â nyrsio neu ofal a ddarperir yn y manau a ganlyn yn gyfystyr â gwasanaeth cartref gofal –
- (a) ysbyty;
  - (b) ysgol (ond gweler is-baragraff (3));
  - (c) canolfan breswyl i deuluoedd;
  - (d) man sy'n darparu gwasanaeth llety diogel;
  - (e) man sy'n darparu llety ar gyfer oedolyn a drefnir fel rhan o wasanaeth lleoli oedolion.
- (3) Mae llety ynghyd â nyrsio neu ofal a ddarperir mewn ysgol yn gyfystyr â gwasanaeth cartref gofal os, ar yr adeg y darperir llety ar gyfer plant yn yr ysgol –
- (a) yw llety wedi ei ddarparu yn yr ysgol neu o dan drefniadau a wneir gan berchennog yr ysgol ar gyfer o leiaf un plentyn am fwy na 295 o ddiwrnodau mewn unrhyw gyfnod o 12 mis sy'n dod o fewn y 24 mis blaenorol, neu
  - (b) bwriedir i lety o'r fath gael ei ddarparu ar gyfer o leiaf un plentyn am fwy na 295 o ddiwrnodau mewn unrhyw gyfnod o 12 mis sy'n dod o fewn y 24 mis dilynol.
- (4) Nid yw'r ddarpariaeth o lety a gofal i blentyn gan riant, perthynas neu riant maeth yn gyfystyr â gwasanaeth cartref gofal.
- (5) Yn is-baragraff (2)(b), mae i "ysgol" yr ystyr a roddir i "school" gan adran 4 o Ddeddf Addysg 1996 (p.56).
- (6) Yn is-baragraff (4), ystyr "rhiant" yw person sydd â chyfrifoldeb rhiant dros blentyn (o fewn yr ystyr a roddir i "parent" a "parental responsibility" gan adran 3 o Ddeddf Plant 1989 (p.41)).
- (7) At ddibenion is-baragraff (4) mae person yn rhiant maeth mewn perthynas â phlentyn os yw'r person –
- (a) yn rhiant maeth awdurdod lleol, neu
  - (b) yn maethu'r plentyn yn breifat.

*Gwasanaethau llety diogel*

- 2 "Gwasanaeth llety diogel" yw'r ddarpariaeth o lety at ddiben cyfyngu ar ryddid plant mewn mangreoedd preswyl yng Nghymru lle y darperir gofal a chymorth i'r plant hynny.

SCHEDULE 1  
(as introduced by section 2(2))

REGULATED SERVICES: DEFINITIONS

*Care home services*

- 1 (1) A “care home service” is the provision of accommodation, together with nursing or care at a place in Wales, to persons because of their vulnerability or need.
- (2) But accommodation together with nursing or care provided at the following places does not constitute a care home service –
  - (a) a hospital;
  - (b) a school (but see sub-paragraph (3));
  - (c) a residential family centre;
  - (d) a place providing a secure accommodation service;
  - (e) a place providing accommodation for an adult arranged as part of an adult placement service.
- (3) Accommodation together with nursing or care provided at a school does constitute a care home service if, at the time accommodation is provided for children at the school –
  - (a) accommodation has been provided at the school or under arrangements made by the school’s proprietor for at least one child for more than 295 days in any period of 12 months falling within the previous 24 months, or
  - (b) such accommodation is intended to be provided for at least one child for more than 295 days in any period of 12 months falling within the following 24 months.
- (4) The provision of accommodation and care to a child by a parent, relative or foster parent does not constitute a care home service.
- (5) In sub-paragraph (2)(b), “school” has the meaning given by section 4 of the Education Act 1996 (c.56).
- (6) In sub-paragraph (4), “parent” means a person who has parental responsibility for a child (within the meaning given by section 3 of the Children Act 1989 (c.41)).
- (7) For the purposes of sub-paragraph (4) a person is a foster parent in relation to a child if the person –
  - (a) is a local authority foster parent, or
  - (b) fosters the child privately.

*Secure accommodation services*

- 2 A “secure accommodation service” is the provision of accommodation for the purpose of restricting the liberty of children at residential premises in Wales where care and support is provided to those children.

*Gwasanaethau canolfannau preswyl i deuluoedd*

- 3 (1) “Gwasanaeth canolfan breswyl i deuluoedd” yw’r ddarpariaeth o lety ar gyfer plant a’u rhieni mewn man yng Nghymru –
- (a) lle y mae galluedd y rhieni i ymateb i anghenion y plant ac i ddiogelu eu llesiant yn cael ei fonitro neu ei asesu, a
  - (b) lle y rhoddir i’r rhieni unrhyw ofal a chymorth yr ystyrir eu bod yn angenrheidiol.
- (2) Yn is-baragraff (1), ystyr “rhiant” mewn perthynas â phlentyn yw unrhyw berson sy’n gofalu am y plentyn.

*Gwasanaethau mabwysiadu*

- 4 Mae “gwasanaeth mabwysiadu” yn wasanaeth a ddarperir yng Nghymru gan –
- (a) cymdeithas fabwysiadu o fewn ystyr “adoption society” yn Neddf Mabwysiadu a Phlant 2002 (p.38) sy’n sefydliad gwirfoddol o fewn ystyr y Ddeddf honno, neu
  - (b) asiantaeth cymorth mabwysiadu o fewn yr ystyr a roddir i “adoption support agency” gan adran 8 o’r Ddeddf honno.

*Gwasanaethau maethu*

- 5 Ystyr “gwasanaeth maethu” yw unrhyw wasanaeth a ddarperir yng Nghymru gan berson ac eithrio awdurdod lleol sy’n gwneud y naill neu’r llall o’r canlynol neu sy’n cynnwys y naill neu’r llall o’r canlynol –
- (a) lleoli plant gyda rhieni maeth awdurdod lleol;
  - (b) arfer swyddogaethau mewn cysylltiad â’r lleoliad hwnnw.

*Gwasanaethau lleoli oedolion*

- 6 (1) Ystyr “gwasanaeth lleoli oedolion” yw gwasanaeth a gynhelir (pa un ai er elw ai peidio) gan awdurdod lleol neu berson arall at ddibenion lleoli oedolion gydag unigolyn yng Nghymru o dan gytundeb gofalwr (ac mae’n cynnwys unrhyw drefniadau ar gyfer recriwtio, hyfforddi a goruchwyllo unigolion o’r fath).
- (2) Yn is-baragraff (1) ystyr “cytundeb gofalwr” yw cytundeb ar gyfer darparu gan unigolyn lety yng nghartref yr unigolyn ynghyd â gofal a chymorth ar gyfer hyd at dri oedolyn.

*Gwasanaethau eirioli*

- 7 (1) Mae “gwasanaeth eirioli” yn wasanaeth a bennir at ddibenion y paragraff hwn gan reoliadau a wneir gan Weinidogion Cymru.
- (2) Ni chaniateir i wasanaeth gael ei bennu’n wasanaeth eirioli oni bai bod y gofynion a ganlyn wedi eu bodloni mewn perthynas â’r gwasanaeth, ac i’r graddau y maent wedi eu bodloni felly.
- (3) Y gofyniad cyntaf yw bod y gwasanaeth yn wasanaeth a gynhelir (pa un ai er elw ai peidio) at ddiben cynrychioli safbwyntiau unigolion, neu helpu unigolion i fynegi’r safbwyntiau hynny, mewn cysylltiad â materion sy’n ymwneud ag anghenion yr unigolion hynny am ofal a chymorth (gan gynnwys materion sy’n ymwneud ag asesu pa un a yw’r anghenion hynny’n bodoli).

*Residential family centre services*

- 3 (1) A “residential family centre service” is the provision of accommodation for children and their parents at a place in Wales where –
- (a) the parents’ capacity to respond to the children’s needs and to safeguard their well-being is monitored or assessed, and
  - (b) the parents are given such care and support as is thought necessary.
- (2) In sub-paragraph (1), “parent” in relation to a child, means any person who is looking after the child.

*Adoption services*

- 4 An “adoption service” is a service provided in Wales by –
- (a) an adoption society within the meaning of the Adoption and Children Act 2002 (c.38) which is a voluntary organisation within the meaning of that Act, or
  - (b) an adoption support agency within the meaning given by section 8 of that Act.

*Fostering services*

- 5 A “fostering service” means any service provided in Wales by a person other than a local authority which consists of or includes –
- (a) the placement of children with local authority foster parents, or
  - (b) exercising functions in connection with such placement.

*Adult placement services*

- 6 (1) An “adult placement service” means a service carried on (whether or not for profit) by a local authority or other person for the purposes of placing adults with an individual in Wales under a carer agreement (and includes any arrangements for the recruitment, training and supervision of such individuals).
- (2) In sub-paragraph (1) “carer agreement” means an agreement for the provision by an individual of accommodation at the individual’s home together with care and support for up to three adults.

*Advocacy services*

- 7 (1) An “advocacy service” is a service specified for the purposes of this paragraph by regulations made by the Welsh Ministers.
- (2) A service may be specified as an advocacy service only if, and to the extent that, the following requirements are satisfied in relation to the service.
- (3) The first requirement is that the service is a service which is carried on (whether or not for profit) for the purpose of representing the views of individuals, or assisting individuals to represent those views, in respect of matters relating to those individuals’ needs for care and support (including matters relating to assessing whether those needs exist).

- (4) Yr ail ofyniad yw nad yw'r gwasanaeth yn cael ei gynnal gan berson sydd, yng nghwrs gweithgaredd cyfreithiol (o fewn yr ystyr a roddir i "legal activity" yn Neddf Gwasanaethau Cyfreithiol 2007 (p.29)) –
- (a) yn berson awdurdodedig at ddibenion y Ddeddf honno, neu
  - (b) yn Gyfreithiwr Ewropeaidd (o fewn yr ystyr a roddir i "European lawyer" yng Ngorchymyn Cymunedau Ewropeaidd (Gwasanaethau Cyfreithwyr) (O.S. 1978/1910)).
- (5) Cyn gwneud rheoliadau o dan is-baragraff (1) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (6) Ond nid yw'r gofyniad i ymgynghori yn gymwys i reoliadau –
- (a) sy'n diwygio rheoliadau eraill a wneir o dan yr is-baragraff hwnnw, a
  - (b) nad ydynt, ym marn Gweinidogion Cymru, yn rhoi effaith i unrhyw newid sylweddol yn y ddarpariaeth a wneir gan y rheoliadau sydd i'w diwygio.

*Gwasanaethau cymorth cartref*

- 8 (1) "Gwasanaeth cymorth cartref" yw'r ddarpariaeth o ofal a chymorth i berson nad yw, oherwydd ei hyglwyfedd neu ei angen (ac eithrio hyglwyfedd neu angen nad yw ond yn codi oherwydd bod y person yn ifanc), yn gallu ei ddarparu ar ei gyfer ef ei hun ac a ddarperir yn y man yng Nghymru lle y mae'r person yn byw (gan gynnwys gwneud trefniadau ar gyfer neu ddarparu gwasanaethau mewn cysylltiad â darpariaeth o'r fath).
- (2) Ond nid yw'r ddarpariaeth o ofal a chymorth yn gyfystyr â gwasanaeth cymorth cartref –
- (a) os y'i darperir gan unigolyn heb ymglymiad ymgymeriad sy'n gweithredu fel asiantaeth gyflogi neu fusnes cyflogi (o fewn yr ystyr a roddir i "employment agency" ac "employment business" gan adran 13 o Ddeddf Asiantaethau Cyflogi 1973 (p.35)), ac sy'n gweithio'n gyfan gwbl o dan gyfarwyddyd a rheolaeth y person sy'n cael y gofal a'r cymorth, neu
  - (b) os y'i darperir –
    - (i) mewn man lle y darperir gwasanaeth cartref gofal, gwasanaeth llety diogel, gwasanaeth canolfan breswyl i deuluoedd neu lety a drefnir fel rhan o wasanaeth lleoli oedolion, neu
    - (ii) mewn ysbyty.
- (3) Nid yw person sy'n cyflwyno unigolion sy'n darparu gwasanaeth cymorth cartref i unigolion a all ddymuno ei gael ond nad oes ganddo unrhyw rôl barhaus yng nghyfarwyddyd neu reolaeth y gofal a'r cymorth a ddarperir i'w drin fel pe bai'n darparu gwasanaeth cymorth cartref (ni waeth pa un a yw'r cyflwyniad er elw ai peidio).

- (4) The second requirement is that the service is not carried on by a person, in the course of a legal activity (within the meaning of the Legal Services Act 2007 (c.29)), who is –
  - (a) an authorised person for the purposes of that Act, or
  - (b) a European lawyer (within the meaning of the European Communities (Services of Lawyers) Order (S.I. 1978/1910)).
- (5) Before making regulations under sub-paragraph (1) the Welsh Ministers must consult any persons they think appropriate.
- (6) But the requirement to consult does not apply to regulations which –
  - (a) amend other regulations made under that sub-paragraph, and
  - (b) do not, in the opinion of the Welsh Ministers, effect any substantial change in the provision made by the regulations to be amended.

*Domiciliary support services*

- 8 (1) A “domiciliary support service” is the provision of care and support to a person who by reason of vulnerability or need (other than vulnerability or need arising only because the person is of a young age) is unable to provide it for him or herself and is provided at the place in Wales where the person lives (including making arrangements for or providing services in connection with such provision).
- (2) But the provision of care and support does not constitute a domiciliary support service if –
  - (a) it is provided by an individual without the involvement of an undertaking acting as an employment agency or employment business (within the meaning given to those expressions by section 13 of the Employment Agencies Act 1973 (c.35)), and who works wholly under the direction and control of the person receiving the care and support, or
  - (b) it is provided –
    - (i) at a place where a care home service, secure accommodation service, residential family centre service or accommodation arranged as part of an adult placement service is provided, or
    - (ii) at a hospital.
- (3) A person who introduces individuals who provide a domiciliary support service to individuals who may wish to receive it but has no ongoing role in the direction or control of the care and support provided is not to be treated as providing a domiciliary support service (regardless of whether or not the introduction is for profit).



*Dehongli*

9 Yn yr Atodlen hon—

mae i “rhiant maeth awdurdod lleol” (*“local authority foster parent”*) yr ystyr a roddir gan Ddeddf 2014;

ystyr “ysbyty” (*“hospital”*) yw—

- (a) ysbyty gwasanaeth iechyd o fewn yr ystyr a roddir i “health service hospital” gan Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p.42),
- (b) ysbyty annibynnol o fewn yr ystyr a roddir i “independent hospital” gan Ddeddf Safonau Gofal 2000 (p.14), a
- (c) clinig annibynnol o fewn yr ystyr a roddir i “independent clinic” gan Ddeddf Safonau Gofal 2000.

*Interpretation*

9 In this Schedule –

“hospital” (*“ysbyty”*) means –

- (a) a health service hospital within the meaning given by the National Health Service (Wales) Act 2006 (c.42),
- (b) an independent hospital within the meaning given by the Care Standards Act 2000 (c.14), and
- (c) an independent clinic within the meaning given by the Care Standards Act 2000;

“local authority foster parent” (*“rhiant maeth awdurdod lleol”*) has the meaning given by the 2014 Act.

## ATODLEN 2

*(fel y'i cyflwynwyd gan adran 67(4))*

## GOFAL CYMDEITHASOL CYMRU

## RHAN 1

## STATWS

*Statws*

- 1 (1) Nid yw GCC i'w ystyried yn was nac yn asiant i'r Goron nac ychwaith i'w ystyried yn mwynhau unrhyw statws, imiwnedd na braint sydd gan y Goron.
- (2) Nid yw eiddo GCC i'w ystyried yn eiddo i'r Goron, nac yn eiddo a ddelir ar ei rhan.

## RHAN 2

## AELODAETH

*Aelodau*

- 2 (1) Mae GCC i gael—
  - (a) aelod i gadeirio GCC (“yr aelod-gadeirydd”), a
  - (b) dim mwy na 14 o aelodau eraill.
- (2) Gweinidogion Cymru sydd i benodi aelodau GCC.
- (3) Ni chaniateir i berson sy'n aelod o staff GCC gael ei benodi'n aelod o GCC ac ni chaiff person o'r fath ddal swydd fel aelod o GCC.
- (4) Mae aelodau GCC i ddal swydd ar unrhyw delerau ac amodau y mae Gweinidogion Cymru yn penderfynu arnynt; ond mae hyn yn ddarostyngedig i'r darpariaethau eraill yn yr Atodlen hon.
- (5) Cyn gwneud penodiad o dan y paragraff hwn, rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.
- (6) Wrth arfer eu swyddogaethau o dan y paragraff hwn, rhaid i Weinidogion Cymru roi sylw i ddymunoldeb penodi aelodaeth amrywiol sydd â mwyafrif o bersonau nad ydynt, ac nad ydynt wedi bod, yn weithwyr gofal cymdeithasol neu'n gynrychiolwyr gweithwyr gofal cymdeithasol.

*Tâl etc. aelodau*

- 3 (1) Caiff GCC dalu i'w haelodau unrhyw dâl, treuliau a lwfansau y mae Gweinidogion yn penderfynu arnynt.
- (2) Mae GCC i dalu, neu wneud darpariaeth ar gyfer talu, unrhyw bensiwn, lwfans neu arian rhodd y mae Gweinidogion Cymru yn penderfynu arnynt i berson sy'n aelod o GCC, neu sydd wedi bod yn aelod o GCC, neu mewn cysylltiad â pherson o'r fath.

SCHEDULE 2  
*(as introduced by section 67(4))*

SOCIAL CARE WALES

PART 1

STATUS

*Status*

- 1 (1) SCW is not to be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) SCW's property is not to be regarded as property of, or property held on behalf of, the Crown.

PART 2

MEMBERSHIP

*Members*

- 2 (1) SCW is to consist of—
- (a) a member to chair SCW ("the chairing member"), and
  - (b) not more than 14 other members.
- (2) SCW's members are to be appointed by the Welsh Ministers.
- (3) A person who is a member of SCW's staff may not be appointed or hold office as a member of SCW.
- (4) SCW's members are to hold office on such terms and conditions as the Welsh Ministers may determine; but this is subject to the other provisions of this Schedule.
- (5) Before making an appointment under this paragraph the Welsh Ministers must consult such persons as they think appropriate.
- (6) In exercising their functions under this paragraph the Welsh Ministers must have regard to the desirability of appointing a varied membership which comprises a majority of persons who are not, and have not been, social care workers or representatives of social care workers.

*Remuneration etc. of members*

- 3 (1) SCW may pay to its members such remuneration, expenses and allowances as the Welsh Ministers may determine.
- (2) SCW is to pay, or make provision for the payment, of such pension, allowance or gratuities as the Welsh Ministers may determine to or in respect of a person who is or has been a member of SCW.

- (3) Os yw Gweinidogion Cymru yn penderfynu bod amgylchiadau arbennig sy'n ei gwneud yn iawn i berson sy'n peidio â dal swydd fel aelod-gadeirydd GCC gael digollediad, rhaid i GCC dalu neu wneud darpariaeth ar gyfer talu i'r person unrhyw ddigollediad y mae Gweinidogion Cymru yn penderfynu arno.

*Tymor y swydd*

- 4 Mae person a benodir yn aelod o GCC yn dal swydd am unrhyw gyfnod y mae Gweinidogion Cymru yn penderfynu arno wrth wneud y penodiad; ond ni chaniateir i'r cyfnod hwnnw fod yn hwy na 4 blynedd.

*Ymddiswyddo*

- 5 (1) Caiff yr aelod-gadeirydd ymddiswyddo drwy roi hysbysiad ysgrifenedig i Weinidogion Cymru.
- (2) Caiff ymddiswyddo—
- (a) fel aelod-gadeirydd, neu
  - (b) fel aelod-gadeirydd ac fel aelod.
- (3) Caiff aelod o GCC nad yw'n aelod-gadeirydd ymddiswyddo drwy roi hysbysiad ysgrifenedig i Weinidogion Cymru.

*Diswyddo*

- 6 (1) Caiff Gweinidogion Cymru drwy hysbysiad ysgrifenedig ddiswyddo'r aelod-gadeirydd os ydynt wedi eu bodloni—
- (a) ei fod yn anaddas i barhau'n aelod-gadeirydd, neu
  - (b) nad yw'n gallu gweithredu fel aelod-gadeirydd neu ei fod yn anfodlon gwneud hynny.
- (2) Cânt ddiswyddo'r aelod-gadeirydd o'i swydd—
- (a) fel aelod-gadeirydd, neu
  - (b) fel aelod-gadeirydd ac fel aelod.
- (3) Caiff Gweinidogion Cymru drwy hysbysiad ysgrifenedig ddiswyddo aelod o GCC nad yw'n aelod-gadeirydd os ydynt wedi eu bodloni—
- (a) ei fod yn anaddas i barhau'n aelod, neu
  - (b) nad yw'n gallu gweithredu fel aelod neu ei fod yn anfodlon gwneud hynny.

## RHAN 3

## PWERAU CYFFREDINOL

*Pwyllgorau*

- 7 (1) Caiff GCC sefydlu pwyllgorau.
- (2) Caiff pwyllgorau a sefydlir o dan is-baragraff (1) sefydlu is-bwyllgorau.

- (3) If the Welsh Ministers determine that there are special circumstances which make it right for a person ceasing to hold office as the chairing member of SCW to receive compensation, SCW must pay the person or make provision for the payment to the person of such compensation as the Welsh Ministers may determine.

*Term of office*

- 4 A person appointed as a member of SCW holds office for such period as the Welsh Ministers may determine when making the appointment; but that period may not exceed 4 years.

*Resignation*

- 5 (1) The chairing member may resign by giving written notice to the Welsh Ministers.
  - (2) Resignation may be either –
    - (a) as chairing member, or
    - (b) as both chairing member and member.
  - (3) A member of SCW who is not the chairing member may resign by giving written notice to the Welsh Ministers.

*Dismissal*

- 6 (1) The Welsh Ministers may by written notice dismiss the chairing member if satisfied that he or she –
  - (a) is unfit to continue as chairing member, or
  - (b) is unable or unwilling to act as chairing member.
- (2) Dismissal may be either –
  - (a) as chairing member, or
  - (b) as both chairing member and member.
- (3) The Welsh Ministers may by written notice dismiss a member of SCW who is not the chairing member if satisfied that he or she –
  - (a) is unfit to continue as a member, or
  - (b) is unable or unwilling to act as a member.

PART 3

GENERAL POWERS

*Committees*

- 7 (1) SCW may establish committees.
  - (2) Committees established under sub-paragraph (1) may establish sub-committees.

- (3) Caiff pwyllgor neu is-bwyllgor a sefydlir o dan y paragraff hwn gynnwys personau nad ydynt yn aelodau o GCC neu fod â phersonau o'r fath yn unig.
- (4) Caiff GCC dalu tâl, treuliau a lwfansau i unrhyw berson—
  - (a) sy'n aelod o bwyllgor neu is-bwyllgor a sefydlir o dan y paragraff hwn, a
  - (b) nad yw'n aelod o GCC nac yn aelod o'i staff.

*Dirprwyo*

- 8 (1) Caiff GCC drefnu i unrhyw un neu ragor o'i swyddogaethau gael eu harfer gan unrhyw un neu ragor—
  - (a) o'i bwyllgorau,
  - (b) o'i is-bwyllgorau,
  - (c) o'i aelodau, neu
  - (d) o'i staff.
- (2) Nid yw is-baragraff (1) yn effeithio ar gyfrifoldeb GCC am arfer swyddogaethau dirprwyedig nac ar ei allu i arfer swyddogaethau dirprwyedig.

*Pwerau atodol*

- 9 Caiff GCC wneud unrhyw beth y bwriedir iddo hwyluso arfer ei swyddogaethau, neu sy'n ffafriol i'w harfer neu'n gysylltiedig â'u harfer.

## RHAN 4

## TRAFODION ETC.

*Gweithdrefn*

- 10 (1) Mae GCC i reoleiddio ei weithdrefn ei hun (gan gynnwys cworwm); ond mae hyn yn ddarostyngedig i'r darpariaethau eraill yn y Ddeddf hon ac unrhyw reoliadau a wneir odani.
- (2) Mae GCC i reoleiddio gweithdrefn (gan gynnwys cworwm)—
  - (a) ei bwyllgorau, a
  - (b) ei is-bwyllgorau.

*Gosod y sêl*

- 11 (1) Caiff GCC fod â sêl.
- (2) Rhaid i'r weithred o osod y sêl gael ei dilysu drwy lofnod—
  - (a) unrhyw aelod o GCC, neu
  - (b) unrhyw berson arall a awdurdodir gan GCC at y diben hwnnw.

- (3) A committee or sub-committee established under this paragraph may include, or be comprised entirely of, persons who are not members of SCW.
- (4) SCW may pay remuneration, expenses and allowances to any person who—
  - (a) is a member of a committee or sub-committee established under this paragraph, and
  - (b) is not a member of SCW, or a member of its staff.

*Delegation*

- 8 (1) SCW may arrange for any of its functions to be exercised by any of its—
- (a) committees,
  - (b) sub-committees,
  - (c) members, or
  - (d) staff.
- (2) Sub-paragraph (1) does not affect SCW's responsibility for exercise of delegated functions or affect its ability to exercise delegated functions.

*Supplementary powers*

- 9 SCW may do anything which is calculated to facilitate, or which is conducive or incidental to, the exercise of its functions.

PART 4

PROCEEDINGS ETC.

*Procedure*

- 10 (1) SCW is to regulate its own procedure (including quorum); but this is subject to the other provisions of this Act and any regulations made under it.
- (2) SCW is to regulate the procedure (including quorum) of its—
- (a) committees, and
  - (b) sub-committees.

*Application of seal*

- 11 (1) SCW may have a seal.
- (2) The application of the seal must be authenticated by the signature of—
- (a) any member of SCW, or
  - (b) any other person authorised by SCW for that purpose.



*Tystiolaeth*

- 12 Mae dogfen yr honnir ei bod wedi ei gweithredu'n briodol o dan sêl GCC neu wedi ei llofnodi ar ei ran i gael ei derbyn yn dystiolaeth ac, oni phrofir i'r gwrthwyneb, ei chymryd fel ei bod wedi ei gweithredu neu ei llofnodi felly.

## RHAN 5

## PRIF WEITHREDWR A STAFF ERAILL

*Prif weithredwr a staff eraill*

- 13 (1) Rhaid i GCC benodi prif weithredwr.
- (2) Caiff GCC benodi unrhyw staff eraill sy'n briodol yn ei farn ef; ond mae hyn yn ddarostyngedig i adran 81 (dyletswydd GCC i benodi cofrestrydd).
- (3) Cyflogir person a benodir yn brif weithredwr ar unrhyw delerau ac amodau y mae GCC yn penderfynu arnynt; ond mae'n ofynnol i Weinidogion Cymru gymeradwyo'r penodiad (gan gynnwys unrhyw delerau ac amodau'r penodiad).
- (4) Cyflogir unrhyw staff eraill a benodir o dan y paragraff hwn ar unrhyw delerau ac amodau y mae GCC yn penderfynu arnynt; ond rhaid i GCC ymgynghori â Gweinidogion Cymru cyn penderfynu ar unrhyw delerau ac amodau ynghylch lefelau'r tâl, y pensiynau, y lwfansau a'r treuliau sy'n daladwy i staff o'r fath, neu mewn cysylltiad â hwy.

## RHAN 6

## MATERION ARIANNOL AC ADRODDIADAU BLYNYDDOL ETC.

*Taliadau gan Weinidogion Cymru*

- 14 Caiff Gweinidogion Cymru wneud taliadau i GCC o unrhyw symiau, ac ar unrhyw adegau ac ar unrhyw amodau (os oes rhai), sy'n briodol ym marn Gweinidogion Cymru.

*Swyddog cyfrifyddu*

- 15 (1) Mae'r prif weithredwr i weithredu fel swyddog cyfrifyddu GCC.
- (2) Mae gan y swyddog cyfrifyddu, mewn perthynas â chyfrifon a chyllid GCC, y cyfrifoldebau a bennir mewn cyfarwyddyd gan Weinidogion Cymru.
- (3) Ymhlith y cyfrifoldebau y caniateir eu pennu mae—
- cyfrifoldebau mewn perthynas â llofnodi cyfrifon;
  - cyfrifoldebau am briodoldeb a rheoleidd-dra cyllid GCC;
  - cyfrifoldebau am ddarbodaeth, effeithlonrwydd ac effeithiolrwydd o ran defnydd GCC o'i adnoddau;
  - cyfrifoldebau sy'n ddyledus i Weinidogion Cymru, Cynulliad Cenedlaethol Cymru neu Bwyllgor Cyfrifon Cyhoeddus y Cynulliad Cenedlaethol;
  - cyfrifoldebau sy'n ddyledus i Dŷ'r Cyffredin neu Bwyllgor Cyfrifon Cyhoeddus y Tŷ hwnnw.

*Evidence*

- 12 A document purporting to be duly executed under the seal of SCW or to be signed on its behalf is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

PART 5

CHIEF EXECUTIVE AND OTHER STAFF

*Chief executive and other staff*

- 13 (1) SCW must appoint a chief executive.
- (2) SCW may appoint such other staff as it thinks appropriate; but this is subject to section 81 (duty of SCW to appoint a registrar).
- (3) A person appointed as chief executive is employed on such terms and conditions as SCW may determine; but the appointment (including any terms and conditions of appointment) requires the approval of the Welsh Ministers.
- (4) Any other staff appointed under this paragraph are employed on such terms and conditions as SCW may determine; but SCW must consult the Welsh Ministers before determining any terms and conditions about the levels of remuneration, pensions, allowances and expenses payable to, or in respect of, such staff.

PART 6

FINANCIAL MATTERS AND ANNUAL REPORTS ETC.

*Payments by the Welsh Ministers*

- 14 The Welsh Ministers may make payments to SCW of such amounts, and at such times and on such conditions (if any), as the Welsh Ministers think appropriate.

*Accounting officer*

- 15 (1) The chief executive is to act as SCW's accounting officer.
- (2) The accounting officer has, in relation to SCW's accounts and finances, the responsibilities specified in a direction by the Welsh Ministers.
- (3) The responsibilities that may be specified include –
- (a) responsibilities in relation to the signing of accounts;
  - (b) responsibilities for the propriety and regularity of SCW's finances;
  - (c) responsibilities for the economy, efficiency and effectiveness with which SCW uses its resources;
  - (d) responsibilities owed to the Welsh Ministers, the National Assembly for Wales or the Public Accounts Committee of the National Assembly;
  - (e) responsibilities owed to the House of Commons or the Committee of Public Accounts of that House.

*Cyfrifon ac archwilio*

- 16 (1) Rhaid i GCC ar gyfer pob blwyddyn ariannol—
- (a) cadw cyfrifon priodol a chofnodion priodol mewn perthynas â hwy, a
  - (b) llunio datganiad o gyfrifon.
- (2) Rhaid i bob datganiad o gyfrifon gydymffurfio ag unrhyw gyfarwyddydau a roddir gan Weinidogion Cymru o ran—
- (a) yr wybodaeth sydd i'w chynnwys ynddo,
  - (b) ym mha fodd y mae'r wybodaeth i'w chyflwyno, ac
  - (c) y dulliau a'r egwyddorion y mae'r datganiad i gael ei lunio yn unol â hwy.
- (3) Heb fod yn hwyrach na 31 Awst ar ôl diwedd pob blwyddyn ariannol, rhaid i GCC gyflwyno ei ddatganiad o gyfrifon i—
- (a) Gweinidogion Cymru, a
  - (b) Archwilydd Cyffredinol Cymru.
- (4) Rhaid i Archwilydd Cyffredinol Cymru—
- (a) archwilio'r datganiad o gyfrifon, ei ardystio ac adrodd arno, a
  - (b) heb fod yn hwyrach na 4 mis ar ôl i'r datganiad gael ei gyflwyno, gosod gerbron Cynulliad Cenedlaethol Cymru gopi o'r datganiad ardystiedig a'r adroddiad.

*Adroddiadau blynyddol etc.*

- 17 (1) Heb fod yn hwyrach na 30 Tachwedd ar ôl diwedd pob blwyddyn ariannol, rhaid i GCC gyhoeddi adroddiad ar y ffordd y cafodd ei swyddogaethau eu harfer yn ystod y flwyddyn honno ("adroddiad blynyddol").
- (2) Cyn gynted â phosibl ar ôl i adroddiad blynyddol gael ei gyhoeddi, rhaid i GCC anfon copi ohono at Weinidogion Cymru.
- (3) Rhaid i GCC ddarparu i Weinidogion Cymru unrhyw adroddiadau eraill a gwybodaeth arall sy'n ymwneud ag arfer ei swyddogaethau sy'n ofynnol ganddynt o bryd i'w gilydd.

*Accounts and audit*

- 16 (1) SCW must for each financial year –
- (a) keep proper accounts and proper records in relation to them, and
  - (b) prepare a statement of accounts.
- (2) Each statement of accounts must comply with any directions given by the Welsh Ministers as to –
- (a) the information to be contained in it,
  - (b) the manner in which the information is to be presented, and
  - (c) the methods and principles according to which the statement is to be prepared.
- (3) No later than 31 August after the end of each financial year SCW must submit its statement of accounts to –
- (a) the Welsh Ministers, and
  - (b) the Auditor General for Wales.
- (4) The Auditor General for Wales must –
- (a) examine, certify and report on the statement of accounts, and
  - (b) no later than 4 months after the statement was submitted, lay before the National Assembly for Wales a copy of the certified statement and report.

*Annual reports etc.*

- 17 (1) No later than 30 November after the end of each financial year SCW must publish a report on the exercise of its functions during that year (an “annual report”).
- (2) As soon as possible after an annual report is published SCW must send a copy of it to the Welsh Ministers.
- (3) SCW must provide the Welsh Ministers with such other reports and information relating to the exercise of its functions as they may from time to time require.

## ATODLEN 3

*(fel y'i cyflwynwyd gan adran 185)*

## MÂN DDIWYGIADAU A DIWYGIADAU CANLYNIADOL

## RHAN 1

## RHEOLEIDDIO GWASANAETHAU

*Deddf Safonau Gofal 2000*

- 1 Mae Deddf Safonau Gofal 2000 (p.14) wedi ei diwygio fel a ganlyn.
- 2 Yn adran 1 –
  - (a) yn is-adran (1), ar y diwedd mewnosoder “as it applies in relation to England”;
  - (b) yn is-adran (2), ar ôl “establishment” mewnosoder “in England”;
  - (c) mae is-adran (4) wedi ei diddymu;
  - (d) yn is-adran (4A), mae’r geiriau “in England” wedi eu diddymu;
  - (e) daw pennawd yr adran yn “Children’s homes in England”.
- 3 Yn adran 3 –
  - (a) yn is-adran (1), ar ôl “establishment” mewnosoder “in England”;
  - (b) mae is-adran (3) wedi ei diddymu;
  - (c) yn is-adran (4), mae’r geiriau “in England” wedi eu diddymu;
  - (d) daw pennawd yr adran yn “Care homes in England”.
- 4 Yn adran 4 –
  - (a) yn is-adran (2), ar ôl “establishment” mewnosoder “in England”;
  - (b) yn is-adran (3), ar ôl “persons” mewnosoder “in England”;
  - (c) yn is-adran (4) –
    - (i) ym mharagraff (a), ar ôl “authorities” mewnosoder “in England”;
    - (ii) ym mharagraff (b), ar ôl “organisation” mewnosoder “in England”;
  - (d) mae is-adran (5) wedi ei diddymu;
  - (e) yn is-adran (7), ar y diwedd mewnosoder “whose principal office is in England”;
  - (f) yn is-adran (7A), yn lle “has” rhodder “means an undertaking in England which is an adoption support agency within”;
  - (g) yn is-adran (8)(a) –
    - (i) yn is-baragraff (i), ar y diwedd mewnosoder “in England”;
    - (ii) yn is-baragraff (ii), ar ôl “home” mewnosoder “in England”;
    - (iii) mae is-baragraff (vi) wedi ei diddymu;
    - (iv) yn is-baragraff (vii), ar y diwedd mewnosoder “in England”;
  - (h) yn is-adran (9)(a), mae is-baragraffau (ii) a (iii) wedi eu diddymu;

SCHEDULE 3  
(as introduced by section 185)

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

REGULATION OF SERVICES

*Care Standards Act 2000*

- 1 The Care Standards Act 2000 (c.14) is amended as follows.
- 2 In section 1 –
  - (a) in subsection (1), at the end insert “as it applies in relation to England”;
  - (b) in subsection (2), after “establishment” insert “in England”;
  - (c) subsection (4) is repealed;
  - (d) in subsection (4A), the words “in England” are repealed;
  - (e) the section heading becomes “Children’s homes in England”.
- 3 In section 3 –
  - (a) in subsection (1), after “establishment” insert “in England”;
  - (b) subsection (3) is repealed;
  - (c) in subsection (4), the words “in England” are repealed;
  - (d) the section heading becomes “Care homes in England”.
- 4 In section 4 –
  - (a) in subsection (2), after “establishment” insert “in England”;
  - (b) in subsection (3), after “persons” insert “in England”;
  - (c) in subsection (4) –
    - (i) in paragraph (a), after “authorities” insert “in England”;
    - (ii) in paragraph (b), after “organisation” insert “in England”;
  - (d) subsection (5) is repealed;
  - (e) in subsection (7), at the end insert “whose principal office is in England”;
  - (f) in subsection (7A), for “has” substitute “means an undertaking in England which is an adoption support agency within”;
  - (g) in subsection (8)(a) –
    - (i) in sub-paragraph (i), at the end insert “in England”;
    - (ii) in sub-paragraph (ii), after “home” insert “in England”;
    - (iii) sub-paragraph (vi) is repealed;
    - (iv) in sub-paragraph (vii), at the end insert “in England”;
  - (h) in subsection (9)(a), sub-paragraphs (ii) and (iii) are repealed;

- (i) yn is-adran (10), ar ôl “services” lle y mae’n digwydd yn gyntaf mewnosoder “in England”.

5 Yn adran 5 –

- (a) yn is-adran (1)(b), yn lle “in any other case” rhodder “in the case of establishments mentioned in subsection (1B)”;
- (b) yn is-adran (1A), ar ôl “agencies” mewnosoder “mentioned in subsection (1)(a)”;
- (c) ar ôl is-adran (1A), mewnosoder –

“(1B) The establishments mentioned in subsection (1)(b) are –

- (a) independent hospitals in Wales;
- (b) independent clinics in Wales.”;

- (d) mae is-adran (2) wedi ei diddymu.

6 Yn adran 8(6) –

- (a) ym mharagraff (a), yn lle “section 5(b)” rhodder “section 5(1)(b)”;
- (b) ym mharagraff (b), yn lle is-baragraffau (i) a (ii) rhodder “by the Care Quality Commission –

(i) under Chapters 2 and 3 of Part 1 of the Health and Social Care Act 2008 in relation to health care in England, or

(ii) under the Mental Health Act 1983 in relation to England.”

7 Yn adran 14(2), ar ôl paragraff (f) mewnosoder –

“(g) an offence under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”

8 Yn adran 22 –

- (a) yn is-adran (1), yn lle paragraff (b) rhodder –

“(b) regulations made by the Welsh Ministers –

(i) may make provision only in relation to establishments for which the Welsh Ministers are the registration authority, and

(ii) may in particular make any provision such as is mentioned in subsection (2), (7) or (8) in so far as relevant to those establishments.”;

- (b) mae is-adrannau (3) a (4) wedi eu diddymu.

9 Yn adran 22B –

- (a) yn is-adran (1), yn lle “registration authority” rhodder “CIECSS”;
- (b) yn is-adran (3)(c), yn lle “registration authority’s” rhodder “CIECSS’s”;
- (c) yn is-adran (4)(b), yn lle “registration authority” rhodder “CIECSS”;
- (d) yn is-adran (5)(a), yn lle “registration authority” rhodder “CIECSS”;
- (e) yn is-adran (6), yn lle “registration authority” rhodder “CIECSS”;

(i) in subsection (10), after “services” where it first occurs insert “in England”.

5 In section 5—

(a) in subsection (1)(b), for “in any other case” substitute “in the case of establishments mentioned in subsection (1B)”;

(b) in subsection (1A), after “agencies” insert “mentioned in subsection (1)(a)”;

(c) after subsection (1A), insert—

“(1B) The establishments mentioned in subsection (1)(b) are—

(a) independent hospitals in Wales;

(b) independent clinics in Wales.”;

(d) subsection (2) is repealed.

6 In section 8(6)—

(a) in paragraph (a), for “section 5(b)” substitute “section 5(1)(b)”;

(b) in paragraph (b) for sub-paragraphs (i) and (ii) substitute “by the Care Quality Commission—

(i) under Chapters 2 and 3 of Part 1 of the Health and Social Care Act 2008 in relation to health care in England, or

(ii) under the Mental Health Act 1983 in relation to England.”

7 In section 14(2), after paragraph (f) insert—

“(g) an offence under Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”

8 In section 22—

(a) in subsection (1), for paragraph (b) substitute—

“(b) regulations made by the Welsh Ministers—

(i) may make provision only in relation to establishments for which the Welsh Ministers are the registration authority, and

(ii) may in particular make any provision such as is mentioned in subsection (2), (7) or (8) in so far as relevant to those establishments.”;

(b) subsections (3) and (4) are repealed.

9 In section 22B—

(a) in subsection (1), for “registration authority” substitute “CIECSS”;

(b) in subsection (3)(c), for “registration authority’s” substitute “CIECSS’s”;

(c) in subsection (4)(b), for “registration authority” substitute “CIECSS”;

(d) in subsection (5)(a), for “registration authority” substitute “CIECSS”;

(e) in subsection (6), for “registration authority” substitute “CIECSS”;



- (f) yn is-adran (8) –
- (i) ym mharagraff (a), ar y diwedd mewnosoder “in England”;
  - (ii) ym mharagraff (b), ar y diwedd mewnosoder “in England”.
- 10 Yn adran 23, ar ôl is-adran (1) mewnosoder –
- “(1ZA) But the Welsh Ministers may prepare and publish such a statement only in relation to establishments for which the Welsh Ministers are the registration authority.”
- 11 Yn adran 30A –
- (a) yn is-adran (1), ar ôl “agency” mewnosoder “in England”;
  - (b) yn is-adran (2), yn lle “registration authority” rhodder “CIECSS”;
  - (c) yn is-adran (3), yn lle “registration authority” rhodder “CIECSS”;
  - (d) yn is-adran (7), yn y diffiniad o “prescribed”, mae paragraff (b) wedi ei ddiddymu.
- 12 Mae adran 36A wedi ei diddymu.
- 13 Yn adran 42 –
- (a) yn lle is-adran (2) rhodder –
- “(2) This subsection applies to persons who provide services which are similar to services which may or must be provided by Welsh NHS bodies.”;
- (b) yn is-adran (7), mae’r diffiniad o “Welsh local authorities” wedi ei ddiddymu.
- 14 Yn adran 43, ar ôl is-adran (1) mewnosoder –
- “(1A) “Local authority” means a local authority in England.”
- 15 Yn adran 50(1), yn lle “registration authority” rhodder “CIECSS”.
- 16 Mae adran 79(3) wedi ei diddymu.

*Deddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003*

- 17 Mae Deddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p.43) wedi ei diwygio fel a ganlyn.
- 18 Mae Pennod 6 o Ran 2 (gwasanaethau cymdeithasol: swyddogaethau Cynulliad Cenedlaethol Cymru) wedi ei diddymu.
- 19 Yn adran 142, ym mharagraff (a) –
- (a) yn is-baragraff (i), hepgorer “and 6”;
  - (b) yn is-baragraff (ii), yn lle “section 5(b)” rhodder “section 5(1)(b)”.
- 20 Yn adran 143(2), mae paragraff (b) wedi ei ddiddymu.

*Deddf Archwilio Cyhoeddus (Cymru) 2004*

- 21 Mae Deddf Archwilio Cyhoeddus (Cymru) 2004 (p.23) wedi ei diwygio fel a ganlyn.

- (f) in subsection (8) –
  - (i) in paragraph (a), at the end insert “in England”;
  - (ii) in paragraph (b), at the end insert “in England”.
- 10 In section 23, after subsection (1) insert –
  - “(1ZA) But the Welsh Ministers may prepare and publish such a statement only in relation to establishments for which the Welsh Ministers are the registration authority.”
- 11 In section 30A –
  - (a) in subsection (1), after “agency” insert “in England”;
  - (b) in subsection (2), for “registration authority” substitute “CIECSS”;
  - (c) in subsection (3), for “registration authority” substitute “CIECSS”;
  - (d) in subsection (7), in the definition of “prescribed”, paragraph (b) is repealed.
- 12 Section 36A is repealed.
- 13 In section 42 –
  - (a) for subsection (2) substitute –
    - “(2) This subsection applies to persons who provide services which are similar to services which may or must be provided by Welsh NHS bodies.”;
  - (b) in subsection (7), the definition of “Welsh local authorities” is repealed.
- 14 In section 43, after subsection (1) insert –
  - “(1A) “Local authority” means a local authority in England.”
- 15 In section 50(1), for “registration authority” substitute “CIECSS”.
- 16 Section 79(3) is repealed.

*Health and Social Care (Community Health and Standards) Act 2003*

- 17 The Health and Social Care (Community Health and Standards) Act 2003 (c.43) is amended as follows.
- 18 Chapter 6 of Part 2 (social services: functions of the National Assembly for Wales) is repealed.
- 19 In section 142, in paragraph (a) –
  - (a) in sub-paragraph (i), omit “and 6”;
  - (b) in sub-paragraph (ii), for “section 5(b)” substitute “section 5(1)(b)”.
- 20 In section 143(2), paragraph (b) is repealed.

*Public Audit (Wales) Act 2004*

- 21 The Public Audit (Wales) Act 2004 (c.23) is amended as follows.

- 22 Yn adran 41(6) (cydweithredu rhwng Archwilydd Cyffredinol Cymru a Gweinidogion Cymru mewn astudiaethau ar gyfer gwella darbodaeth etc. mewn gwasanaethau), yn lle'r geiriau o "sections 94 and 95" hyd at y diwedd rhodder "sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers)."
- 23 Yn adran 42(4) (cydweithredu rhwng Archwilydd Cyffredinol Cymru a Gweinidogion Cymru mewn astudiaethau ynghylch effaith darpariaethau statudol), yn lle'r geiriau o "section 95(2)" hyd at y diwedd rhodder "sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers)."

*Deddf Plant 2004*

- 24 Yn adran 30 o Ddeddf Plant 2004 (p.31) (arolygu swyddogaethau o dan Ran 3), yn lle is-adran (1) rhodder –
- “(1) The Welsh Ministers’ functions under Part 8 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) may be exercised as if anything done by a local authority in Wales in the exercise of functions to which this section applies was in the exercise of a social services function of the local authority (within the meaning of that Act).”

*Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005*

- 25 Mae Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 (p.10) wedi ei diwygio fel a ganlyn.
- 26 Yn adran 34R (ystyr "cartref gofal" a "darparwr cartref gofal") –
- (a) yn is-adran (2), yn lle'r geiriau o "has" hyd at y diwedd rhodder "means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over;"
- (b) yn is-adran (3), yn lle "carries on a care home" rhodder "is a service provider of a care home service within the meaning of Part 1 of that Act where the service is provided wholly or mainly to persons aged 18 or over";
- (c) yn is-adran (5), yn lle'r geiriau o "personal" hyd at ddiwedd paragraff (a) rhodder "care in a care home in Wales for an individual because of the individual's vulnerability or need,";
- (d) ar ôl is-adran (5), mewnosoder –
- “(6) "Care" has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”
- 27 Yn adran 42(4A) (ystyr "cyn-ddarparwr cartref gofal"), yn lle'r geiriau o "personal" hyd at ddiwedd paragraff (a) rhodder "care of a particular description at a care home in Wales (see section 32R),”.

- 22 In section 41(6) (co-operation between the Auditor General for Wales and the Welsh Ministers in studies for improving economy etc. in services), for the words from “sections 94 and 95” to the end substitute “sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers).”
- 23 In section 42(4) (co-operation between the Auditor General for Wales and the Welsh Ministers in studies about the impact of statutory provisions), for the words from “section 95(2)” to the end substitute “sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of studies and research and other reviews relating to local authority social services functions carried out by the Welsh Ministers).”

*Children Act 2004*

- 24 In section 30 of the Children Act 2004 (c.31) (inspection of functions under Part 3), for subsection (1) substitute –
- “(1) The Welsh Ministers’ functions under Part 8 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) may be exercised as if anything done by a local authority in Wales in the exercise of functions to which this section applies was in the exercise of a social services function of the local authority (within the meaning of that Act).”

*Public Services Ombudsman (Wales) Act 2005*

- 25 The Public Services Ombudsman (Wales) Act 2005 (c.10) is amended as follows.
- 26 In section 34R (meaning of “care home” and “care home provider”) –
- (a) in subsection (2), for the words from “has” to the end substitute “means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over;”
  - (b) in subsection (3), for “carries on a care home” substitute “is a service provider of a care home service within the meaning of Part 1 of that Act where the service is provided wholly or mainly to persons aged 18 or over”;
  - (c) in subsection (5), for the words from “personal” to the end of paragraph (a) substitute “care in a care home in Wales for an individual because of the individual’s vulnerability or need,”;
  - (d) after subsection (5), insert –
- “(6) “Care” has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”
- 27 In section 42(4A) (meaning of “former care home provider”), for the words from “personal” to the end of paragraph (a) substitute “care of a particular description at a care home in Wales (see section 32R),”.

*Deddf Diogelu Grwpiau Hyglwyf 2006*

28 Ym mharagraff 1 o Atodlen 4 i Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p.47) (gweithgaredd rheoleiddiedig sy'n ymwneud â phlant), yn is-baragraff (9B) –

(a) yn lle is-is-baragraff (h) rhodder –

“(h) an inspection in Wales under section 33 of the Regulation and Inspection of Social Care (Wales) Act 2016 (inspections of regulated care and support services) of a residential family centre service, a fostering service, or an adoption service (each of which has the meaning given in Schedule 1 to that Act);”

(b) yn lle is-is-baragraff (j) rhodder –

“(j) a review under section 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of local authority social services functions in Wales);”

(c) yn is-is-baragraff (k), yn lle “or investigation under section 94” rhodder “under section 149B”.

*Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014*

29 Mae Deddf 2014 wedi ei diwygio fel a ganlyn.

30 Yn adran 1 (trosolwg) –

(a) yn is-adran (9) –

(i) ar ôl paragraff (b) mewnosoder –

“(ba) yn ei gwneud yn ofynnol bod awdurdodau lleol yn llunio –

(i) adroddiadau blynyddol ynghylch arfer swyddogaethau gwasanaethau cymdeithasol, a

(ii) adroddiadau ar sefydlogrwydd marchnadoedd lleol ar gyfer darparu gofal a chymorth,

(adrannau 144A a 144B);”

(ii) ar ôl paragraff (c) mewnosoder –

“(ca) yn darparu pwerau i Weinidogion Cymru i gynnal adolygiadau sy'n ymwneud ag arfer swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol (adrannau 149A a 149B);”

(iii) ym mharagraff (d), yn lle “161.” rhodder “160);

(da) yn caniatáu ar gyfer arolygu mangreoedd mewn cysylltiad ag adolygiadau a gynhelir gan Weinidogion Cymru o swyddogaethau gwasanaethau cymdeithasol awdurdodau lleol neu arfer pwerau ymyrryd Gweinidogion Cymru mewn perthynas â'r swyddogaethau hynny, ac i Weinidogion Cymru ofyn am wybodaeth mewn cysylltiad ag adolygiadau o'r fath ac yn gwneud darpariaeth gysylltiedig (adrannau 161 i 161C).”;

*Safeguarding Vulnerable Groups Act 2006*

28 In paragraph 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (c.47) (regulated activity relating to children), in sub-paragraph (9B) –

(a) for sub-sub-paragraph (h) substitute –

“(h) an inspection in Wales under section 33 of the Regulation and Inspection of Social Care (Wales) Act 2016 (inspections of regulated care and support services) of a residential family centre service, a fostering service, or an adoption service (each of which has the meaning given in Schedule 1 to that Act);”

(b) for sub-sub-paragraph (j) substitute –

“(j) a review under section 149B of the Social Services and Well-being (Wales) Act 2014 (reviews of local authority social services functions in Wales);”

(c) in sub-sub-paragraph (k) for “or investigation under section 94” substitute “under section 149B”.

*Social Services and Well-being (Wales) Act 2014*

29 The 2014 Act is amended as follows.

30 In section 1 (overview) –

(a) in subsection (9) –

(i) after paragraph (b) insert –

“(ba) requires local authorities to produce –

(i) annual reports about the exercise of social services functions, and

(ii) reports about the stability of local markets for providing care and support,

(sections 144A and 144B);”

(ii) after paragraph (c) insert –

“(ca) provides powers for the Welsh Ministers to conduct reviews relating to the exercise of social services functions of local authorities (sections 149A and 149B);”

(iii) in paragraph (d), for “161.” substitute “160);

(da) allows for the inspection of premises in connection with reviews of local authority social services functions conducted by the Welsh Ministers or the exercise of the Welsh Ministers’ powers of intervention in relation to those functions, and for the Welsh Ministers to request information in connection with such reviews and makes related provision (sections 161 to 161C).”;

- (b) yn is-adran (15)(c), yn lle “sefydliad neu asiantaeth (o fewn yr ystyr a roddir i “establishment” ac “agency” yn Neddf Safonau Gofal 2000)” rhodder “darparwr gwasanaeth (o fewn ystyr Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016)”.
- 31 Mae adran 183 (rhoi cyhoeddusrwydd i wasanaethau eirioli mewn cartrefi gofal) wedi ei diddymu.
- 32 Yn adran 188(1) (diffiniadau at ddibenion adrannau 185 i 187), yn y diffiniad o “llety cadw ieuencid”, yn lle paragraff (a) rhodder –
- “(a) gwasanaeth llety diogel (o fewn ystyr Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016);”.
- 33 Yn adran 189 (methiant darparwr: dyletswydd dros dro ar awdurdod lleol) –
- (a) yn lle is-adran (1) rhodder –
- “(1) Mae’r adran hon yn gymwys pan fo darparwr gwasanaeth yn methu â darparu gwasanaeth rheoleiddiedig oherwydd methiant busnes.”;
- (b) yn is-adran (2), yn lle’r geiriau o “person” hyd at “asiantaeth” yn yr ail le y mae’n digwydd rhodder “darparwr gwasanaeth fethu â darparu’r gwasanaeth rheoleiddiedig, yn cael eu diwallu yn ardal yr awdurdod gan y darparwr gwasanaeth”;
- (c) yn is-adran (5)(a), yn lle “person cofrestredig fethu â rhedeg y sefydliad neu ei reoli neu fethu â rhedeg yr asiantaeth neu ei rheoli” rhodder “darparwr gwasanaeth fethu â darparu’r gwasanaeth rheoleiddiedig”;
- (d) yn is-adran (9) –
- (i) cyn y diffiniad o “gofalwr perthnasol” rhodder –
- “mae i “darparwr gwasanaeth” (“service provider”) yr un ystyr ag yn Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016;”
- (ii) cyn y diffiniad o “person cofrestredig” mewnosoder –
- “mae i “gwasanaeth rheoleiddiedig” (“regulated service”) yr un ystyr ag yn Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016;”
- (iii) mae’r diffiniad o “person cofrestredig” wedi ei ddiddymu.
- 34 Yn adran 190(1) (methiant darparwr: eithriad i’r ddyletswydd dros dro), yn lle “person cofrestredig fethu â rhedeg y sefydliad neu ei reoli neu fethu â rhedeg yr asiantaeth neu ei rheoli” rhodder “darparwr gwasanaeth fethu â darparu’r gwasanaeth rheoleiddiedig”.
- 35 Yn adran 191 (methiant darparwr: materion atodol) –
- (a) yn is-adran (6), yn lle “person cofrestredig, neu unrhyw berson arall sy’n gysylltiedig â busnes y sefydliad neu’r asiantaeth” rhodder “darparwr gwasanaeth, neu unrhyw berson arall sy’n gysylltiedig â busnes y darparwr gwasanaeth”;
- (b) yn is-adran (7), yn lle “rhedeg sefydliad neu ei reoli neu’n methu â rhedeg asiantaeth neu ei rheoli” rhodder “darparu gwasanaeth rheoleiddiedig”.

(b) in subsection (15)(c), for “an establishment or agency (within the meaning of the Care Standards Act 2000)” substitute “a service provider (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016)”.

31 Section 183 (publicising advocacy services in care homes) is repealed.

32 In section 188(1) (definitions for the purposes of sections 185 to 187), in the definition of “youth detention accommodation”, for paragraph (a) substitute –

“(a) a secure accommodation service (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016);”.

33 In section 189 (provider failure: temporary duty on local authority) –

(a) for subsection (1) substitute –

“(1) This section applies where a service provider becomes unable to provide a regulated service because of business failure.”;

(b) in subsection (2), for the words from “registered” to “agency” where it second occurs substitute “service provider became unable to provide the regulated service, being met in the authority’s area by the service provider”;

(c) in subsection (5)(a), for “registered person became unable to carry on or manage the establishment or agency” substitute “service provider became unable to provide the regulated service”;

(d) in subsection (9) –

(i) the definition of “registered person” is repealed;

(ii) before the definition of “relevant carer” insert –

““regulated service” (*“gwasanaeth rheoleiddiedig”*) has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016;”

(iii) at the end insert –

““service provider” (*“darparwr gwasanaeth”*) has the same meaning as in Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016.”

34 In section 190(1) (provider failure: exception to temporary duty), for “registered person became unable to carry on or manage the establishment or agency” substitute “service provider became unable to provide the regulated service”.

35 In section 191 (provider failure: supplementary) –

(a) in subsection (6), for “registered person, or such other person involved in the establishment or agency’s” substitute “service provider, or such other person involved in the service provider’s”;

(b) in subsection (7), for “carry on or manage an establishment or agency” substitute “provide a regulated service”.



36 Yn adran 197(1) (diffiniadau) –

(a) yn lle'r diffiniad o "cartref gofal" rhodder y diffiniad a ganlyn –

"ystyr "cartref gofal" ("*care home*") yw mangre lle y mae gwasanaeth cartref gofal, o fewn ystyr Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016, yn cael ei ddarparu'n gyfan gwbl neu'n bennaf i oedolion;"

(b) yn y diffiniad o "cartref plant", yn lle'r geiriau o "cartref plant" hyd at y diwedd rhodder "mangre lle y mae gwasanaeth cartref gofal, o fewn ystyr Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016, yn cael ei ddarparu'n gyfan gwbl neu'n bennaf i blant;".

## RHAN 2

### GOFAL CYMDEITHASOL CYMRU

#### *Deddf Iechyd Meddwl 1983*

37 Mae Deddf Iechyd Meddwl 1983 (p.20) wedi ei diwygio fel a ganlyn.

38 Yn adran 114A (cymeradwyo cyrsiau i weithwyr proffesiynol iechyd meddwl: Cymru) –

(a) yn is-adran (1), yn lle "Care Council for Wales" rhodder "Social Care Wales";

(b) yn lle is-adran (2) rhodder –

"(2) For that purpose –

(a) subsections (2), (3), (4)(a) and (7) of section 114 of the Regulation and Inspection of Social Care (Wales) Act 2016 apply as they apply to approvals given, rules made and courses approved under that section, and

(b) sections 73 to 75 and section 115 of that Act apply accordingly.";

(c) yn is-adran (4), yn lle'r geiriau o "for" hyd at y diwedd rhodder "for the purposes of Parts 3 to 8 of the Regulation and Inspection of Social Care (Wales) Act 2016";

(d) yn is-adran (5), yn lle "Care Council for Wales" rhodder "Social Care Wales".

39 Yn adran 130H(7)(b) (eiriolwyr iechyd meddwl annibynnol i Gymru: pwerau a dyletswyddau atodol), yn lle'r geiriau o "principal" hyd at y diwedd rhodder "social worker part or the visiting European part of the register kept under section 80(1) of the Regulation and Inspection of Social Care (Wales) Act 2016."

#### *Deddf Safonau Gofal 2000*

40 Mae Deddf Safonau Gofal 2000 (p.14) wedi ei diwygio fel a ganlyn.

41 Mae'r darpariaethau a ganlyn wedi eu diddymu –

(a) adrannau 56 (y gofrestr) i 66 (ymwelwyr ar gyfer cyrsiau gwaith cymdeithasol penodol);

(b) adrannau 68 (apelau i'r tribiwnlys), 69 (cyhoeddi etc. y gofrestr) ac 71 (rheolau);

36 In section 197(1) (definitions)–

- (a) in the definition of “care home”, for the words from “has” to the end substitute “means premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to adults;”
- (b) in the definition of “children’s home”, for the words from “a children’s” to the end substitute “premises at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to children;”.

## PART 2

### SOCIAL CARE WALES

#### *Mental Health Act 1983*

37 The Mental Health Act 1983 (c.20) is amended as follows.

38 In section 114A (approval of courses for mental health professionals: Wales)–

- (a) in subsection (1), for “Care Council for Wales” substitute “Social Care Wales”;
- (b) for subsection (2) substitute –

“(2) For that purpose –

- (a) subsections (2), (3), (4)(a) and (7) of section 114 of the Regulation and Inspection of Social Care (Wales) Act 2016 apply as they apply to approvals given, rules made and courses approved under that section, and
- (b) sections 73 to 75 and section 115 of that Act apply accordingly.”;

(c) in subsection (4), for the words from “for” to the end substitute “for the purposes of Parts 3 to 8 of the Regulation and Inspection of Social Care (Wales) Act 2016”;

(d) in subsection (5), for “Care Council for Wales” substitute “Social Care Wales”.

39 In section 130H(7)(b) (independent mental health advocates for Wales: supplementary powers and duties), for the words from “principal” to the end substitute “social worker part or the visiting European part of the register kept under section 80(1) of the Regulation and Inspection of Social Care (Wales) Act 2016.”

#### *Care Standards Act 2000*

40 The Care Standards Act 2000 (c.14) is amended as follows.

41 The following provisions are repealed–

- (a) sections 56 (the register) to 66 (visitors for certain social work courses);
- (b) sections 68 (appeals to the tribunal), 69 (publication etc. of register) and 71 (rules);

- (c) adran 113 (pwerau diofyn y Gweinidog priodol);
- (d) y cofnod ar gyfer Cyngor Cymru yn y tabl yn adran 121(13) (dehongli cyffredinol etc.);
- (e) Atodlen 1 (Cyngor Cymru).

42 Yn adran 55 (dehongli) –

- (a) yn lle is-adrannau (2), (3) a (4) rhodder –

“(2) “Social care worker” means a person (other than a person excepted by regulations) who –

- (a) engages in social work which is required in connection with any health, education or social services provided in England (referred to in this Part as a “social worker”),
- (b) is employed at a children’s home in England, a care home in England or a residential family centre in England,
- (c) manages a home or centre of a kind mentioned in paragraph (b),
- (d) is employed for the purposes of a domiciliary care agency, a fostering agency, a voluntary adoption agency or an adoption support agency, in so far as the agency provides services to persons in England,
- (e) manages an agency of the kind mentioned in paragraph (d), or
- (f) is supplied by a domiciliary care agency to provide personal care in their own homes for persons in England who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.

(3) Regulations may provide that persons of any of the following descriptions shall be treated as social care workers –

- (a) a person engaged in work for the purposes of a local authority in England’s social services functions;
- (b) a person engaged in work in England comprising the provision of services similar to services which may or must be provided by a local authority in England in the exercise of its social services functions;
- (c) a person engaged in the provision of personal care for any person in England;
- (d) a person who is employed in an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care to persons in England;
- (e) a person who manages an undertaking of the kind mentioned in paragraph (d);

- (c) section 113 (default powers of appropriate Minister);
- (d) the entry for the Welsh Council in the table in section 121(13) (general interpretation etc.);
- (e) Schedule 1 (the Welsh Council).

42 In section 55 (interpretation) –

- (a) for subsections (2), (3) and (4) substitute –

“(2) “Social care worker” means a person (other than a person excepted by regulations) who –

- (a) engages in social work which is required in connection with any health, education or social services provided in England (referred to in this Part as a “social worker”),
  - (b) is employed at a children’s home in England, a care home in England or a residential family centre in England,
  - (c) manages a home or centre of a kind mentioned in paragraph (b),
  - (d) is employed for the purposes of a domiciliary care agency, a fostering agency, a voluntary adoption agency or an adoption support agency, in so far as the agency provides services to persons in England,
  - (e) manages an agency of the kind mentioned in paragraph (d), or
  - (f) is supplied by a domiciliary care agency to provide personal care in their own homes for persons in England who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
- (3) Regulations may provide that persons of any of the following descriptions shall be treated as social care workers –
- (a) a person engaged in work for the purposes of a local authority in England’s social services functions;
  - (b) a person engaged in work in England comprising the provision of services similar to services which may or must be provided by a local authority in England in the exercise of its social services functions;
  - (c) a person engaged in the provision of personal care for any person in England;
  - (d) a person who is employed in an undertaking (other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care to persons in England;
  - (e) a person who manages an undertaking of the kind mentioned in paragraph (d);

- (f) a person who is employed in connection with the discharge of the functions of the Secretary of State under section 80 of the 1989 Act (inspection of children's homes etc.);
- (g) a person who is employed as a member of staff of the Office for Standards in Education, Children's Services and Skills who inspects premises under –
  - (i) section 87 of the 1989 Act (welfare of children accommodated in independent schools and colleges),
  - (ii) section 31 of this Act (inspection of establishments and agencies by persons authorised by registration authority), or
  - (iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector);
- (h) a person who is employed as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008, inspects premises used for or in connection with the provision of social care (within the meaning of that Part);
- (i) a person who manages employees mentioned in paragraph (g) or (h);
- (j) a person employed in a day centre in England;
- (k) a person participating in a course approved by the Health and Care Professions Council under article 15 of the Health and Social Work Professions Order 2001 for persons wishing to become social workers.", a

(b) hepgorer is-adrannau (6), (7) ac (8).

43 Yn adran 67 (swyddogaethau'r Gweinidog priodol) –

- (a) yn is-adran (1), yn lle "appropriate Minister" rhodder "Secretary of State",
- (b) yn lle is-adran (2) rhodder –

"(2) The Secretary of State shall encourage persons to take part in –

- (a) courses approved by the Health and Social Care Professions Council under article 15 or by virtue of article 19(4) of the Health and Social Care Work Professions Order 2001 for persons who are or wish to become social workers, and
- (b) other courses relevant to the training of persons who are or wish to become social care workers.";

(c) yn is-adran (3) –

- (i) yn lle "appropriate Minister" yn y man cyntaf lle y mae'n ymddangos rhodder "Secretary of State", a
- (ii) yn lle "appropriate Minister" yn yr ail fan lle y mae'n ymddangos rhodder "Secretary of State";

- (f) a person who is employed in connection with the discharge of the functions of the Secretary of State under section 80 of the 1989 Act (inspection of children’s homes etc.);
- (g) a person who is employed as a member of staff of the Office for Standards in Education, Children’s Services and Skills who inspects premises under –
  - (i) section 87 of the 1989 Act (welfare of children accommodated in independent schools and colleges),
  - (ii) section 31 of this Act (inspection of establishments and agencies by persons authorised by registration authority), or
  - (iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector);
- (h) a person who is employed as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008, inspects premises used for or in connection with the provision of social care (within the meaning of that Part);
- (i) a person who manages employees mentioned in paragraph (g) or (h);
- (j) a person employed in a day centre in England;
- (k) a person participating in a course approved by the Health and Care Professions Council under article 15 of the Health and Social Work Professions Order 2001 for persons wishing to become social workers.”, and

(b) omit subsections (6), (7) and (8).

43 In section 67 (functions of the appropriate Minister) –

- (a) in subsection (1), for “appropriate Minister” substitute “Secretary of State”,
- (b) for subsection (2) substitute –

“(2) The Secretary of State shall encourage persons to take part in –

- (a) courses approved by the Health and Social Care Professions Council under article 15 or by virtue of article 19(4) of the Health and Social Care Work Professions Order 2001 for persons who are or wish to become social workers, and
- (b) other courses relevant to the training of persons who are or wish to become social care workers.”;

(c) in subsection (3) –

- (i) for “appropriate Minister” at the first place it appears substitute “Secretary of State”, and
- (ii) for “appropriate Minister” at the second place it appears substitute “Secretary of State”;

- (d) yn is-adran (4) –
  - (i) yn lle “appropriate Minister” yn y man cyntaf lle y mae’n ymddangos rhodder “Secretary of State”,
  - (ii) yn lle “the Minister” rhodder “he or she”, a
  - (iii) ym mharagraff (a), hepgorer “and Wales,”;
- (e) hepgorer is-adran (6);
- (f) yn is-adran (7) –
  - (i) ym mharagraff (a), hepgorer “or (6)(b)”,
  - (ii) ym mharagraff (b), yn lle “appropriate Minister” rhodder “Secretary of State”, a
  - (iii) yn y geiriau ar ôl paragraff (b), yn lle “and, in respect of an authorisation given by the Assembly, references to a Minister included the Assembly; and in subsection (5)(b) and (6)(b)” rhodder “and in subsection (5)(b)”;
- (g) yn lle’r pennawd, rhodder “Functions of the Secretary of State”.

44 Yn Atodlen 2A (personau sy’n ddarostyngedig i adolygiad gan Gomisiynydd Plant Cymru), ym mharagraff 14, yn lle “The Care Council for Wales” rhodder “Social Care Wales”.

*Deddf Mabwysiadu a Phlant 2002*

- 45 Mae Deddf Mabwysiadu a Phlant 2002 (p.38) wedi ei diwygio fel a ganlyn.
- 46 Yn adran 10(2) (rheoli etc. asiantaethau), yn lle “section 56(1) of the Care Standards Act 2000 (c. 14)” rhodder “section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”.

*Deddf Archwilio Cyhoeddus (Cymru) 2004*

- 47 Mae Deddf Archwilio Cyhoeddus (Cymru) 2004 (p.23) wedi ei diwygio fel a ganlyn.
- 48 Yn adran 41 (astudiaethau ar gyfer gwella darbodaeth etc. mewn gwasanaethau), ar ôl is-adran (6) mewnosoder –
  - “(7) Subsection (8) applies in respect of the discharge of social services functions by local authorities in Wales.
  - (8) The Auditor General and Social Care Wales must co-operate with each other with respect to the exercise of their respective functions under this section and section 70 of the Regulation and Inspection of Social Care (Wales) Act 2016 (studies by SCW as to economy etc.).
  - (9) In subsection (7) “social services functions” has the same meaning as in the Social Services and Well-being (Wales) Act 2014.”

*Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005*

- 49 Mae Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 (p.10) wedi ei diwygio fel a ganlyn.

- (d) in subsection (4) –
  - (i) for “appropriate Minister” at the first place it appears substitute “Secretary of State”,
  - (ii) for “the Minister” substitute “he or she”, and
  - (iii) in paragraph (a), omit “and Wales,”;
- (e) omit subsection (6);
- (f) in subsection (7) –
  - (i) in paragraph (a), omit “or (6)(b)”,
  - (ii) in paragraph (b), for “appropriate Minister” substitute “Secretary of State”, and
  - (iii) in the words after paragraph (b), for “and, in respect of an authorisation given by the Assembly, references to a Minister included the Assembly; and in subsection (5)(b) and (6)(b)” substitute “and in subsection (5)(b)”;
- (g) for the heading, substitute “Functions of the Secretary of State”.

44 In Schedule 2A (persons subject to review by the Children’s Commissioner for Wales), in paragraph 14, for “The Care Council for Wales” substitute “Social Care Wales”.

*Adoption and Children Act 2002*

45 The Adoption and Children Act 2002 (c.38) is amended as follows.

46 In section 10(2) (management etc. of agencies), for “section 56(1) of the Care Standards Act 2000 (c. 14)” substitute “section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”.

*Public Audit (Wales) Act 2004*

47 The Public Audit (Wales) Act 2004 (c.23) is amended as follows.

- 48 In section 41 (studies for improving economy etc. in services), after subsection (6) insert –
- “(7) Subsection (8) applies in respect of the discharge of social services functions by local authorities in Wales.
  - (8) The Auditor General and the Social Care Wales must co-operate with each other with respect to the exercise of their respective functions under this section and section 70 of the Regulation and Inspection of Social Care (Wales) Act 2016 (studies by SCW as to economy etc.).
  - (9) In subsection (7) “social services functions” has the same meaning as in the Social Services and Well-being (Wales) Act 2014.”

*Public Services Ombudsman (Wales) Act 2005*

49 The Public Services Ombudsman (Wales) Act 2005 (c.10) is amended as follows.



- 50 Yn Atodlen 3 (awdurdodau rhestredig), yn lle "The Care Council for Wales" rhodder "Social Care Wales".

*Deddf Comisiynydd Pobl Hŷn (Cymru) 2006*

- 51 Mae Deddf Comisiynydd Pobl Hŷn (Cymru) 2006 (p.30) wedi ei diwygio fel a ganlyn.
- 52 Yn Atodlen 2 (personau y mae eu swyddogaethau yn ddarostyngedig i adolygiad gan y Comisiynydd), yn lle "The Care Council for Wales" rhodder "Social Care Wales".

*Deddf Diogelu Grwpiau Hyglwyf 2006*

- 53 Mae Deddf Diogelu Grwpiau Hyglwyf 2006 (p.47) wedi ei diwygio fel a ganlyn.
- 54 Yn adran 41 (cofrestrau: pŵer i atgyfeirio gwybodaeth i'r Gwasanaeth Datgelu a Gwahardd), yng nghofnod rhif 8 yn y tabl yn is-adran (7) –
- (a) yng ngholofn 1, yn lle "under section 56 of the Care Standards Act 2000 (c. 14)" rhodder "under section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)", a
  - (b) yng ngholofn 2, yn lle "The Care Council for Wales" rhodder "the registrar appointed under section 81 of that Act".
- 55 Yn Rhan 3 o Atodlen 3 (rhestrau gwahardd: darpariaeth atodol) –
- (a) ym mharagraff 16(4)(l), yn lle "the Care Council for Wales" rhodder "Social Care Wales", a
  - (b) ar ôl paragraff 16(4) mewnosoder –
    - “(4A) The reference in sub-paragraph (4) to “any of its committees” is, in respect of Social Care Wales, to be read as if it were a reference to “any panel established under Part 8 of the Regulation and Inspection of Social Care (Wales) Act 2016”.
- 56 Yn Rhan 2 o Atodlen 4 (gweithgaredd rheoleiddiedig mewn perthynas ag oedolion hyglwyf) –
- (a) ar ddechrau paragraff 7(3C) mewnosoder "In relation to a vulnerable adult in England," a
  - (b) ar ôl paragraff 7(3C) mewnosoder –
    - “(3CA) In relation to a vulnerable adult in Wales, relevant social work has the meaning given by section 79(4) of the Regulation and Inspection of Social Care (Wales) Act 2016, and social care worker means a person who is a social care worker by virtue of section 79(1)(a) of that Act.”

*Deddf Iechyd a Gofal Cymdeithasol 2008*

- 57 Mae Deddf Iechyd a Gofal Cymdeithasol 2008 (p.14) wedi ei diwygio fel a ganlyn.
- 58 Mae'r darpariaethau a ganlyn wedi eu diddymu –
- (a) adran 124 (rheoleiddio gweithwyr gofal cymdeithasol);

- 50 In Schedule 3 (listed authorities), for “The Care Council for Wales” substitute “Social Care Wales”.

*Commissioner for Older People (Wales) Act 2006*

- 51 The Commissioner for Older People (Wales) Act 2006 (c.30) is amended as follows.
- 52 In Schedule 2 (persons whose functions are subject to review by the Commissioner), for “The Care Council for Wales” substitute “Social Care Wales”.

*Safeguarding Vulnerable Groups Act 2006*

- 53 The Safeguarding Vulnerable Groups Act 2006 (c.47) is amended as follows.
- 54 In section 41 (registers: power to refer information to the Disclosure and Barring Service), in entry number 8 in the table in subsection (7) –
- (a) in column 1, for “under section 56 of the Care Standards Act 2000 (c. 14)” substitute “under section 80 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)”, and
  - (b) in column 2, for “The Care Council for Wales” substitute “the registrar appointed under section 81 of that Act”.

- 55 In Part 3 of Schedule 3 (barred lists: supplementary provision) –
- (a) in paragraph 16(4)(l), for “the Care Council for Wales” substitute “Social Care Wales”, and
  - (b) after paragraph 16(4) insert –
    - “(4A) The reference in sub-paragraph (4) to “any of its committees” is, in respect of Social Care Wales, to be read as if it were a reference to “any panel established under Part 8 of the Regulation and Inspection of Social Care (Wales) Act 2016”.

- 56 In Part 2 of Schedule 4 (regulated activity in relation to vulnerable adults) –
- (a) at the beginning of paragraph 7(3C) insert “In relation to a vulnerable adult in in England,”, and
  - (b) after paragraph 7(3C) insert –
    - “(3CA) In relation to a vulnerable adult in Wales, relevant social work has the meaning given by section 79(4) of the Regulation and Inspection of Social Care (Wales) Act 2016, and social care worker means a person who is a social care worker by virtue of section 79(1)(a) of that Act.”

*Health and Social Care Act 2008*

- 57 The Health and Social Care Act 2008 (c.14) is amended as follows.
- 58 The following provisions are repealed –
- (a) section 124 (regulation of social care workers);

- (b) adran 125 (safon y prawf mewn achosion sy'n ymwneud â chofrestru gweithwyr gofal cymdeithasol);
- (c) adran 126 (addysg a hyfforddiant gweithwyr proffesiynol iechyd meddwl a gymeradwywyd);
- (d) is-adran (3)(b) (a'r "or" yn union o'i blaen) o adran 163 (gorchmynion a rheoliadau: rheolaeth gan Gynulliad Cenedlaethol Cymru);
- (e) is-adran (3)(za) o adran 171 (yr awdurdod priodol sy'n gwneud y gorchymyn cychwyn);
- (f) Atodlen 9 (rheoleiddio gweithwyr gofal cymdeithasol: Cymru).

## RHAN 3

## AMRYWIOL

*Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005*

- 59 Yn adran 33 o Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 (p.10) (cyhoeddusrwydd ar gyfer gweithdrefnau cwynion), ar ôl is-adran (7) mewnosoder –
- “(8) This section applies to a care home provider (see section 34R), a domiciliary care provider (see section 34S) or an independent palliative care provider (see section 34T) as it applies to a listed authority.
  - (9) But in its application in accordance with subsection (8), the reference to “relevant services” in subsection (2)(a)(i) is to be read as a reference to the matters to which Part 2A applies (see section 34A).”

*Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014*

- 60 Mae Deddf 2014 wedi ei diwygio fel a ganlyn.
- 61 Yn y testun Cymraeg o adran 21(3)(b) (dyletswydd i asesu anghenion plentyn am ofal a chymorth), yn lle “, rhieni’r plentyn neu unrhyw berson arall a chanddo gyfrifoldeb rhiant dros y plentyn” rhodder “neu unrhyw berson a chanddo gyfrifoldeb rhiant dros y plentyn”.
- 62 Yn adran 42 (dyletswydd i ddiwallu anghenion gofalwr sy'n blentyn am gymorth) –
- (a) yn is-adran (4)(a)(i), yn lle “41(5)” rhodder “43(5)”;
  - (b) yn is-adran (4)(a)(ii), yn lle “41(1)” rhodder “43(1)”;
  - (c) yn is-adran (4)(b)(i), yn lle “41(5)” rhodder “43(5)”;
  - (d) yn is-adran (4)(b)(ii), yn lle “41(3)” rhodder “43(3)”;
  - (e) yn is-adran (4)(c)(i), yn lle “41(10)” rhodder “43(10)”;
  - (f) yn is-adran (4)(c)(ii), yn lle “41(3)” rhodder “43(3)”.

- (b) section 125 (standard of proof in proceedings relating to registration of social care workers);
- (c) section 126 (education and training of approved mental health professionals);
- (d) subsection (3)(b) (and the “or” immediately before it) of section 163 (orders and regulations: control by National Assembly for Wales);
- (e) subsection (3)(za) of section 171 (the appropriate authority by whom commencement order is made);
- (f) Schedule 9 (regulation of social care workers: Wales).

PART 3

MISCELLANEOUS

*Public Services Ombudsman (Wales) Act 2005*

- 59 In section 33 of the Public Services Ombudsman (Wales) Act 2005 (c.10) (publicity for complaints procedures), after subsection (7) insert—
- “(8) This section applies to a care home provider (see section 34R), a domiciliary care provider (see section 34S) or an independent palliative care provider (see section 34T) as it applies to a listed authority.
  - (9) But in its application in accordance with subsection (8), the reference to “relevant services” in subsection (2)(a)(i) is to be read as a reference to the matters to which Part 2A applies (see section 34A).”

*Social Services and Well-being (Wales) Act 2014*

- 60 The 2014 Act is amended as follows.
- 61 In the Welsh text of section 21(3)(b) (duty to assess the needs of a child for care and support), for “, rhieni’r plentyn neu unrhyw berson arall a chanddo gyfrifoldeb rhiant dros y plentyn” substitute “neu unrhyw berson a chanddo gyfrifoldeb rhiant dros y plentyn”.
- 62 In section 42 (duty to meet support needs of a child carer)—
- (a) in subsection (4)(a)(i), for “41(5)” substitute “43(5)”;
  - (b) in subsection (4)(a)(ii), for “41(1)” substitute “43(1)”;
  - (c) in subsection (4)(b)(i), for “41(5)” substitute “43(5)”;
  - (d) in subsection (4)(b)(ii), for “41(3)” substitute “43(3)”;
  - (e) in subsection (4)(c)(i), for “41(10)” substitute “43(10)”;
  - (f) in subsection (4)(c)(ii), for “41(3)” substitute “43(3)”.

- 63 Yn y testun Cymraeg o adran 46(3) (eithriad ar gyfer personau sy'n ddarostyngedig i reolaeth fewnfudo), yn lle'r geiriau o "For" hyd at "question" rhodder "At ddibenion is-adran (1), mae adran 95(3) a (5) i (8) o Ddeddf 1999, a pharagraff 2 o Atodlen 8 iddi, yn gymwys ond mae'r cyfeiriadau yn adran 95(5) a (7) a'r paragraff hwnnw at yr Ysgrifennydd Gwladol i'w darllen fel cyfeiriadau at yr awdurdod lleol o dan sylw".
- 64 Yn y testun Cymraeg o adran 147(3) (gwyro oddi wrth ofynion mewn codau), ar ôl "gategori" mewnosoder "penodol".
- 65 Yn adran 197(1) (dehongli cyffredinol), yn y diffiniad o "sefydliad gwirfoddol", yn lle "breifat" rhoddir "awdurdod lleol".
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- 63 In the Welsh text of section 46(3) (exception for persons subject to immigration control), for the words from “For” to “question” substitute “At ddibenion is-adran (1), mae adran 95(3) a (5) i (8) o Ddeddf 1999, a pharagraff 2 o Atodlen 8 iddi, yn gymwys ond mae’r cyfeiriadau yn adran 95(5) a (7) a’r paragraff hwnnw at yr Ysgrifennydd Gwladol i’w darllen fel cyfeiriadau at yr awdurdod lleol dan sylw”.
- 64 In the Welsh text of section 147(3) (departure from requirements in codes), after “gategori” insert “penodol”.
- 65 In section 197(1) (general interpretation), in the definition of “voluntary organisation”, for “private body” substitute “local authority”.

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