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## WELSH STATUTORY INSTRUMENTS

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# 2018 No. 1339

## The Local Authority Fostering Services (Wales) Regulations 2018

### PART 7

#### Staffing

##### **Fitness of staff**

**29.**—(1) The local authority provider must not—

- (a) employ a person under a contract of employment to work at the service unless that person is fit to do so,
- (b) allow a volunteer to work at the service unless that person is fit to do so, or
- (c) allow any other person to work at the service in a position in which they may in the course of their duties have regular contact with children who are receiving care and support unless that person is fit to do so.

(2) For the purposes of paragraph (1), a person is not fit to work at the service unless—

- (a) the person is of suitable integrity and good character,
- (b) the person has the qualifications, skills, competence and experience necessary for the work they are to perform,
- (c) the person is able by reason of their health, after reasonable adjustments are made, of properly performing the tasks which are intrinsic to their role,
- (d) the person has provided full and satisfactory information or documentation, as the case may be, in respect of each of the matters required under paragraphs 1 to 9 of Schedule 3, and this information or documentation is available at the service for inspection by the Welsh Ministers, and
- (e) where the person is employed by the local authority provider to manage the service, from [F1 1 April 2022], the person is registered as a social care manager<sup>F2</sup> with Social Care Wales.

(3) An appropriate DBS certificate must be applied for by, or on behalf of, the local authority provider, for the purpose of assessing the suitability of a person for a post referred to in paragraph (1). But this requirement does not apply if the person working at the service is registered with the Disclosure and Barring Service update service (referred to in this regulation as the DBS update service).

(4) Where a person being considered for a post referred to in paragraph (1) is registered with the DBS update service, the local authority provider must check the person's DBS certificate status for the purpose of assessing the suitability of that person for that post.

(5) Where a person appointed to a post referred to in paragraph (1) is registered with the DBS update service, the local authority provider must check the person's DBS certificate status at least annually.

(6) Where a person appointed to a post referred to in paragraph (1) is not registered with the DBS update service, the local authority provider must apply for a new DBS certificate in respect of that person within three years of the issue of the certificate applied for in accordance with paragraph (3) and thereafter further such applications must be made at least every three years.

(7) If any person working at the service is no longer fit to work at the service as a result of one or more of the requirements in paragraph (2) not being met, the local authority provider must—

- (a) take necessary and proportionate action to safeguard children, and
- (b) where appropriate, inform—
  - (i) Social Care Wales,
  - (ii) the Disclosure and Barring Service.

**F1** Words in [reg. 29\(2\)\(e\)](#) substituted (29.4.2019) by [The Local Authority Fostering Services \(Wales\) \(Amendment\) Regulations 2019 \(S.I. 2019/545\)](#), regs. 1(2), **2(e)**

**F2** See section 79(1)(b) of the 2016 Act for the definition of a “social care manager”.

**Changes to legislation:**

There are currently no known outstanding effects for the The Local Authority Fostering Services (Wales) Regulations 2018, Section 29.