

REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 –Social Care Workers: Fitness to Practise

Chapter 2 - Preliminary procedures

Sections 118 – 124 - Preliminary consideration of allegations etc.

177. This chapter sets out the framework for the investigation of allegations of impaired fitness to practise made to SCW in respect of a registered person; the chapter also applies where SCW has other grounds for believing that a person's fitness may be impaired (for example, if SCW became aware through a report in the media that a social worker had been arrested or sacked).
178. Preliminary consideration refers to the process of considering allegations or information to determine whether or not a case should proceed to be given further consideration. It will be SCW's process for screening such allegations and information; and this process could be carried out by a member or members of SCW's staff or by other persons appointed for that purpose. SCW can treat any information which comes to its attention as a potential allegation and there are no particular requirements as to the form of allegations (section 118).
179. The purpose of preliminary consideration is to decide whether the matter merits further investigation or, because of its severity, a direct referral to a fitness to practise panel. Section 120 sets out the criteria for eligibility for onward referral for investigation or immediate panel consideration.
180. If a matter is eligible for onward referral it must be referred for investigation or directly to a fitness to practise panel. SCW must refer allegations concerning convictions for offences in respect of which a custodial sentence was, or could have been, imposed directly to a fitness to practise panel and will have powers to specify in rules any other categories of cases that must be referred directly. This is because there is no need to investigate the facts giving rise to convictions of this nature and SCW will need to be able to act quickly to deal with registered persons convicted of serious offences.
181. At any stage in the fitness to practise process, including preliminary consideration, a registered person's case can be referred to an interim orders panel. Interim order panels consider if any immediate measures are needed to protect the public or the registered person while matters are being considered and investigated. These measures could include restricting the range of activities the registered person is permitted to carry out, or suspending the registered person's registration; the detailed provisions dealing with interim measures appear in Chapter 4 of this Part and are explained below.