OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2016 Rhif 1100 (Cy. 264)

GOFAL CYMDEITHASOL, CYMRU

Rheoliadau Gofal Cymdeithasol Cymru (Achosion gerbron Paneli) 2016

2016 No. 1100 (W. 264)

SOCIAL CARE, WALES

The Social Care Wales (Proceedings before Panels) Regulations 2016

NODYN ESBONIADOL

(Nid yw' r nodyn hwn yn rhan o' r Rheoliadau)

Sefydlwyd Cyngor Gofal Cymru ("y Cyngor") gan Ran 4 o Ddeddf Safonau Gofal 2000 at ddibenion hybu safonau ymddygiad ac ymarfer uchel ymhlith gweithwyr gofal cymdeithasol a hybu safonau uchel yn eu hyfforddiant.

Mae Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 ("y Ddeddf") yn ailenwi'r Cyngor yn Ofal Cymdeithasol Cymru ("GCC"), yn ailddatgan ac yn addasu swyddogaethau gwreiddiol GCC ac yn rhoi swyddogaethau ychwanegol iddo.

Mae adran 174(1) o'r Ddeddf yn ei gwneud yn ofynnol i GCC wneud rheolau er mwyn sefydlu paneli apelau cofrestru, paneli addasrwydd i ymarfer a phaneli gorchmynion interim ("y paneli"). Mae adran 174(6) a (7) o'r Ddeddf yn ei gwneud yn ofynnol i GCC wneud rheolau ynghylch, er enghraifft, penodi personau yn aelodau panel a datgan a chofrestru buddiannau preifat aelodau o'r fath. Mae adran 174(8) o'r Ddeddf yn rhoi'r pŵer i GCC i wneud rheolau ynghylch cyfansoddiad a gweithrediad y paneli ac yn darparu bod rheolau o'r fath yn ddarostyngedig i unrhyw ddarpariaeth a wneir gan Weinidogion Cymru o dan adran 175 o'r Ddeddf (sy'n rhoi pŵer i Weinidogion Cymru i wneud rheoliadau ar gyfer achosion ac mewn cysylltiad ag achosion sydd wedi eu dwyn o dan y Ddeddf hon gerbron y paneli).

Mae Rhan 2 o'r Rheoliadau hyn yn gwneud darpariaeth ynghylch achosion gerbron paneli apelau cofrestru.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Care Council for Wales ("the Council") was established by Part 4 of the Care Standards Act 2000 for the purposes of promoting high standards of conduct and practise among social care workers and promoting high standards in their training.

The Regulation and Inspection of Social Care (Wales) Act 2016 ("the Act") renames the Council as Social Care Wales ("SCW"), restates and modifies SCW's original functions and confers additional functions.

Section 174(1) of the Act requires SCW to make rules to establish registration appeals panels, fitness to practise panels and interim orders panels ("the panels"). Section 174(6) and (7) of the Act requires SCW to make rules about, for example, the appointment of persons as panel members and the declaration and registration of the private interests of such members. Section 174(8) of the Act gives SCW the power to make rules about the constitution and operation of the panels and provides that such rules are subject to any provision made by the Welsh Ministers under section 175 of the Act (which gives the Welsh Ministers power to make regulations for and in connection with proceedings brought under the Act before the panels).

Part 2 of these Regulations makes provision about proceedings before registration appeals panels.

Mae Rhan 3 o'r Rheoliadau hyn yn gwneud darpariaeth ynghylch achosion gerbron paneli addasrwydd i ymarfer.

Part 3 of these Regulations makes provision about proceedings before fitness to practise panels.

Mae Rhan 4 o'r Rheoliadau hyn yn gwneud darpariaeth ynghylch achosion gerbron paneli gorchmynion interim.

Part 4 of these Regulations makes provision about proceedings before interim orders panels.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Yr Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

2016 Rhif 1100 (Cy. 264)

GOFAL CYMDEITHASOL, CYMRU

Rheoliadau Gofal Cymdeithasol Cymru (Achosion gerbron Paneli) 2016

Gwnaed *15 Tachwedd 2016*

Gosodwyd gerbron Cynulliad Cenedlaethol Cymru *22 Tachwedd 2016*

Yn dod i rym *3 Ebrill 2017*

CYNNWYS

RHAN 1

CYFFREDINOL

1. Enwi, cychwyn a chymhwyso
2. Dehongli

RHAN 2

PANELI APELAU COFRESTRU

3. Dehongli Rhan 2
4. Amcanion cyffredinol paneli apelau cofrestru
5. Dyletswydd y partïon mewn achosion apelau cofrestru
6. Achosion apelau cofrestru: pan nad oes angen gwrandawiad
7. Rheoli achos mewn achosion apelau cofrestru
8. Tystiolaeth mewn achosion apelau cofrestru
9. Eithrio'r cyhoedd o wrandawiadau apelau cofrestru
10. Achosion apelau cofrestru: gwysion tystion
11. Mesurau arbennig ar gyfer tystion etc. mewn gwrandawiadau apelau cofrestru
12. Gwrandawiadau apelau cofrestru: y weithdrefn

2016 No. 1100 (W. 264)

SOCIAL CARE, WALES

The Social Care Wales (Proceedings before Panels) Regulations 2016

Made *15 November 2016*

Laid before the National Assembly for Wales *22 November 2016*

Coming into force *3 April 2017*

CONTENTS

PART 1

GENERAL

1. Title, commencement and application
2. Interpretation

PART 2

REGISTRATION APPEALS PANELS

3. Interpretation of Part 2
4. General objectives of registration appeals panels
5. Duty of parties in registration appeals proceedings
6. Registration appeals proceedings: when a hearing is not necessary
7. Case management in registration appeals proceedings
8. Evidence in registration appeals proceedings
9. Exclusion of the public from registration appeals hearings
10. Registration appeals proceedings: witness summons
11. Special measures for witnesses etc. in registration appeals hearings
12. Registration appeals hearings: procedure

13. Rheolau gwrandawiadau apelau cofrestru

RHAN 3

PANELI ADDASRWYDD I YMARFER

14. Dehongli Rhan 3
15. Amcanion cyffredinol paneli addasrwydd i ymarfer
16. Dyletswydd y partïon mewn achosion addasrwydd i ymarfer ac mewn achosion gorchmynion interim
17. Achosion addasrwydd i ymarfer: pan nad oes angen gwrandawiad
18. Achosion gorchmynion interim: pan nad oes angen gwrandawiad
19. Rheoli achos mewn achosion addasrwydd i ymarfer ac mewn achosion gorchmynion interim
20. Tystiolaeth mewn achosion addasrwydd i ymarfer ac mewn achosion gorchmynion interim
21. Eithrio'r cyhoedd o wrandawiadau addasrwydd i ymarfer
22. Eithrio'r cyhoedd o wrandawiadau gorchmynion interim
23. Achosion addasrwydd i ymarfer ac achosion gorchmynion interim: gwysion tystion
24. Mesurau arbennig ar gyfer tystion etc. mewn gwrandawiadau addasrwydd i ymarfer ac mewn gwrandawiadau gorchmynion interim
25. Gwrandawiadau addasrwydd i ymarfer a gwrandawiadau gorchmynion interim: y weithdrefn
26. Rheolau gwrandawiadau addasrwydd i ymarfer a gwrandawiadau gorchmynion interim

RHAN 4

PANELI GORCHMYNION INTERIM

27. Dehongli Rhan 4
28. Amcanion cyffredinol paneli gorchmynion interim
29. Dyletswydd y partïon mewn achosion gorchmynion interim
30. Achosion gorchmynion interim: pan nad oes angen gwrandawiad
31. Rheoli achos mewn achosion gorchmynion interim
32. Tystiolaeth mewn achosion gorchmynion interim

13. Registration appeals hearings rules

PART 3

FITNESS TO PRACTISE PANELS

14. Interpretation of Part 3
15. General objectives of fitness to practise panels
16. Duty of parties in fitness to practise proceedings and in interim orders proceedings
17. Fitness to practise proceedings: when a hearing is not necessary
18. Interim orders proceedings: when a hearing is not necessary
19. Case management in fitness to practise proceedings and in interim orders proceedings
20. Evidence in fitness to practise proceedings and in interim orders proceedings
21. Exclusion of the public from fitness to practise hearings
22. Exclusion of the public from interim orders hearings
23. Fitness to practise proceedings and interim orders proceedings: witness summons
24. Special measures for witnesses etc. in fitness to practise hearings and in interim orders hearings
25. Fitness to practise hearings and interim orders hearings: procedure
26. Fitness to practise hearings and interim orders hearings rules

PART 4

INTERIM ORDERS PANELS

27. Interpretation of Part 4
28. General objectives of interim orders panels
29. Duty of parties in interim orders proceedings
30. Interim orders proceedings: when a hearing is not necessary
31. Case management in interim orders proceedings
32. Evidence in interim orders proceedings

33. Eithrio'r cyhoedd o wrandawiadau gorchmynion interim
34. Achosion gorchmynion interim: gwysion tystion
35. Mesurau arbennig ar gyfer tystion etc. mewn gwrandawiadau gorchmynion interim
36. Gwrandawiadau gorchmynion interim: y weithdrefn
37. Rheolau gwrandawiadau gorchmynion interim

33. Exclusion of the public from interim orders hearings
34. Interim orders proceedings: witness summons
35. Special measures for witnesses etc. in interim orders hearings
36. Interim orders hearings: procedure
37. Interim orders hearings rules

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 175(1) a (2) a 187(1) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(**1**), yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers, in exercise of the powers conferred by sections 175(1) and (2) and 187(1) of the Regulation and Inspection of Social Care (Wales) Act 2016(**1**), make the following Regulations:

RHAN 1

Cyffredinol

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofal Cymdeithasol Cymru (Achosion gerbron Paneli) 2016.

(2) Daw'r Rheoliadau hyn i rym ar 3 Ebrill 2017.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

mae i "cyfrifoldeb rhiant" yr ystyr a roddir i "parental responsibility" yn adran 105 o Ddeddf Plant 1989(**2**);

ystyr "y Ddeddf" ("*the Act*") yw Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016;

mae i "euogfarn gryno" yr ystyr a roddir i "extract conviction" yn adran 307 o Ddeddf Gweithdrefn Droseddol (Yr Alban) 1995(**3**);

mae i "paneli addasrwydd i ymarfer" ("*fitness to practise panels*") yr ystyr a roddir yn adran 174(1)(b) o'r Ddeddf;

(**1**) 2016 dccc 2.
(**2**) 1989 p. 41 ("Deddf 1989"). Mae'r diffiniad yn adran 105 o Ddeddf 1989 yn cyfeirio at ystyr "parental responsibility" a nodir yn adran 3 o'r Ddeddf honno.
(**3**) 1995 p. 46.

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Social Care Wales (Proceedings before Panels) Regulations 2016.

(2) These Regulations come into force on 3 April 2017.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"the Act" ("*y Ddeddf*") means the Regulation and Inspection of Social Care (Wales) Act 2016;

"extract conviction" ("*euogfarn gryno*") has the meaning given in section 307 of the Criminal Procedure (Scotland) Act 1995(**2**);

"fitness to practise panels" ("*paneli addasrwydd i ymarfer*") has the meaning given in section 174(1)(b) of the Act;

"interim orders panels" ("*paneli gorchmynion interim*") has the meaning given in section 174(1)(c) of the Act;

"parental responsibility" ("*cyfrifoldeb rhiant*") has the meaning given in section 105 of the Children Act 1989(**3**);

(**1**) 2016 anaw 2.
(**2**) 1995 c. 46.
(**3**) 1989 c. 41 ("the 1989 Act"). The definition in section 105 of the 1989 Act refers to the meaning of "parental responsibility" set out in section 3 of that Act.

mae i "paneli apelau cofrestru" ("*registration appeals panels*") yr ystyr a roddir yn adran 174(1)(a) o'r Ddeddf;

mae i "paneli gorchmynion interim" ("*interim orders panels*") yr ystyr a roddir yn adran 174(1)(c) o'r Ddeddf.

RHAN 2

Paneli Apelau Cofrestru

Dehongli Rhan 2

3. Yn y Rhan hon—

ystyr "achos" ("*case*") yw achos sy'n ymwneud ag apêl gofrestru gerbron panel apelau cofrestru;

ystyr "achos addasrwydd i ymarfer" ("*fitness to practise proceedings*") yw achos gerbron panel addasrwydd i ymarfer y mae Pennod 3(**1**) neu Bennod 5(**2**) o Ran 6 o'r Ddeddf yn gymwys iddo;

ystyr "achos apelau cofrestru" ("*registration appeals proceedings*") yw achos gerbron panel apelau cofrestru y mae adran 98(1)(**3**), 99(2)(**4**) neu 103(**5**) o'r Ddeddf yn gymwys mewn cysylltiad ag ef;

ystyr "apêl gofrestru" ("*registration appeal*") yw—

(**1**) *Gweler* Pennod 3 o Ran 6 o'r Ddeddf (gwaredu achosion addasrwydd i ymarfer). Mae paneli addasrwydd i ymarfer yn gwneud penderfyniadau ynghylch a oes amhariad ar addasrwydd person i ymarfer ac yn penderfynu pa sancsiynau sy'n briodol ar ôl ystyried achos.

(**2**) *Gweler* Pennod 5 o Ran 6 o'r Ddeddf (achosion adolygu), yn benodol adran 151 o'r Ddeddf (achosion adolygu). Mae'r panel addasrwydd i ymarfer yn gweinyddu'r system ar gyfer adolygu unrhyw amodau sydd ynghlwm wrth allu person i ymarfer, gorchmynion atal dros dro ac ymgymeriadau sydd wedi eu gosod neu y cytunwyd arnynt (yn ôl y digwydd) mewn cysylltiad â'r person yn dilyn achos addasrwydd i ymarfer.

(**3**) Achos adfer yn dilyn achos addasrwydd i ymarfer a arweiniodd at orchymyn sy'n dileu cofnod sy'n ymwneud â'r person hwnnw o'r gofrestr (a gynhelir o dan adran 80 o'r Ddeddf) o dan adran 138(9) (gwarediad yn dilyn canfyddiad o amhariad), adran 152(8)(e) (penderfyniadau yn dilyn adolygiad o ymgymeriadau), adran 153(9)(d) (penderfyniadau yn sgil adolygiad o orchmynion cofrestru amodol) ac adran 154(8)(d) (penderfyniadau yn sgil adolygiad o orchmynion atal dros dro).

(**4**) *Gweler* adran 99 o'r Ddeddf (adolygu ataliad dros dro o'r hawl i wneud cais i adfer). Pan gaiff person, yn dilyn achos addasrwydd i ymarfer, a arweiniodd at orchymyn sy'n dileu cofnod sy'n ymwneud â pherson o'r gofrestr, a bod cyfarwyddyd o dan adran 98(4) o'r Ddeddf wedi ei wneud gan banel apelau cofrestru i atal dros dro hawl person i wneud cais i adfer, wneud cais am adolygiad o'r ataliad dros dro hwnnw o dan yr amgylchiadau a nodir yn adran 99(1) o'r Ddeddf.

(**5**) Ystyried apelau a wneir o dan adran 101 o'r Ddeddf yn erbyn penderfyniad y cofrestrydd (o dan adran 83 (gwrthod cais person i gofrestru), adran 86 (gwrthod cais person i adnewyddu cofrestriad y person), adran 94 (gwrthod dileu cofnod mewn cysylltiad â pherson o'r gofrestr) ac adran 96 (gwrthod caniatáu cais person i adfer cofnod y person i'r gofrestr)).

"registration appeals panels" ("*paneli apelau cofrestru*") has the meaning given in section 174(1)(a) of the Act.

PART 2

Registration Appeals Panels

Interpretation of Part 2

3. In this Part—

"appellant" ("*apelydd*") means a person who brings a registration appeal;

"case" ("*achos*") means proceedings relating to a registration appeal before a registration appeals panel;

"fitness to practise proceedings" ("*achos addasrwydd i ymarfer*") means proceedings before a fitness to practise panel to which Chapter 3(**1**) or Chapter 5(**2**) of Part 6 of the Act applies;

"parties" ("*partïon*") means the appellant and SCW(**3**) (or their representatives);

"registration appeal" ("*apêl gofrestru*") means—

(a) an appeal made in accordance with section 101 of the Act against a decision of the registrar;

(b) an application made in accordance with section 97(5) of the Act for review of a direction under section 98(4) of the Act;

(c) an application made in accordance with section 97(2) of the Act for restoration of a person's entry in a part of the register following fitness to practise proceedings;

"registration appeals hearing" ("*gwrandawiad apelau cofrestru*") means a hearing before a registration appeals panel in registration appeals proceedings;

(**1**) *See* Chapter 3 of Part 6 of the Act (disposal of fitness to practise cases). Fitness to practise panels make decisions about whether a person's fitness to practise is impaired and decide what sanctions are appropriate following consideration of a case.

(**2**) *See* Chapter 5 of Part 6 of the Act (review proceedings), in particular section 151 of the Act (review proceedings). The fitness to practise panel administers the system for the review of any conditions attached to a person's ability to practise, suspension orders and undertakings which have been imposed or agreed (as the case may be) in respect of the person following fitness to practise proceedings.

(**3**) *See* section 67(3) of the Act for the definition of "SCW".

(a) apêl a wneir yn unol ag adran 101 o'r Ddeddf yn erbyn penderfyniad y cofrestrydd;

(b) cais a wneir yn unol ag adran 97(5) o'r Ddeddf i adolygu cyfarwyddyd o dan adran 98(4) o'r Ddeddf;

(c) cais a wneir yn unol ag adran 97(2) o'r Ddeddf i adfer cofnod person i ran o'r gofrestr yn dilyn achos addasrwydd i ymarfer;

ystyr "apelydd" ("*appellant*") yw person sy'n dwyn apêl gofrestru;

ystyr "gwrandawiad apelau cofrestru" ("*registration appeals hearing*") yw gwrandawiad gerbron panel apelau cofrestru mewn achos apelau cofrestru;

ystyr "partïon" ("*parties*") yw'r apelydd a GCC(**1**) (neu eu cynrychiolwyr).

"registration appeals proceedings" ("*achos apelau cofrestru*") means proceedings before a registration appeals panel in respect of which section 98(1)(**1**), 99(2)(**2**) or 103(**3**) of the Act applies.

Amcanion cyffredinol paneli apelau cofrestru

4.—(1) Amcanion cyffredinol panel apelau cofrestru wrth gyflawni ei swyddogaethau mewn perthynas ag achosion apelau cofrestru yw—

(a) diogelu, hybu a chynnal iechyd, diogelwch a llesiant y cyhoedd;

(b) hybu a chynnal—

(i) hyder y cyhoedd mewn gweithwyr gofal cymdeithasol(**2**), a

(ii) safon uchel o ymddygiad ac ymarfer ymhlith gweithwyr gofal cymdeithasol; ac

(c) ymdrin â'r achos yn deg ac yn gyfiawn.

General objectives of registration appeals panels

4.—(1) The general objectives of a registration appeals panel in carrying out its functions in relation to registration appeals proceedings are—

(a) to protect, promote and maintain the health, safety and well-being of the public;

(b) to promote and maintain—

(i) public confidence in social care workers(**4**), and

(ii) a high standard of conduct and practice among social care workers; and

(c) to deal fairly and justly with the case.

(**1**) *Gweler* adran 67(3) o'r Ddeddf am y diffiniad o "GCC".

(**2**) *Gweler* adran 79 o'r Ddeddf am ystyr "gweithiwr gofal cymdeithasol".

(**1**) Restoration proceedings following fitness to practise proceedings which resulted in an order removing an entry relating to that person from the register (which is maintained under section 80 of the Act) under section 138(9) (disposal following a finding of impairment), section 152(8)(e) (decisions following review of undertakings), section 153(9)(d) (decisions on review of conditional registration orders) and section 154(8)(d) (decisions on review of suspension orders).

(**2**) *See* section 99 of the Act (review of the suspension of right to apply for restoration). Where, following fitness to practise proceedings, which resulted in an order removing an entry relating to a person from the register, and a direction under section 98(4) of the Act has been made by a registration appeals panel to suspend a person's right to apply for restoration, a person may apply for a review of that suspension in the circumstances set out in section 99(1) of the Act.

(**3**) Consideration of appeals made under section 101 of the Act against a decision of the registrar (under section 83 (refusal of a person's application for registration), section 86 (refusal of a person's application for renewal of the person's registration), section 94 (refusal to remove an entry in respect of a person from the register) and section 96 (refusal to grant a person's application for restoration of the person's entry to the register)).

(**4**) *See* section 79 of the Act for the meaning of "social care worker".

(2) Mae ymdrin ag achos yn deg ac yn gyfiawn yn cynnwys—

(a) ymdrin â'r achos mewn ffyrdd sy'n gymesur â phwysigrwydd yr achos, cymhlethdod y materion, y costau disgwyliedig ac adnoddau'r partïon;

(b) osgoi ffurfioldeb diangen a cheisio sicrhau hyblygrwydd yn yr achosion;

(c) sicrhau, i'r graddau y mae hynny'n ymarferol, fod y partïon yn gallu cymryd rhan lawn yn yr achosion;

(d) defnyddio unrhyw arbenigedd arbennig y panel neu GCC yn effeithiol;

(e) osgoi oedi, i'r graddau y mae hynny'n gydnaws â rhoi ystyriaeth briodol i'r materion.

(2) Dealing with a case fairly and justly includes—

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the panel or SCW effectively;

(e) avoiding delay, so far as that is compatible with a proper consideration of the issues.

Dyletswydd y partïon mewn achosion apelau cofrestru

5.—(1) Dyletswydd y partïon yw—

(a) cydweithredu â'r panel apelau cofrestru, a

(b) ei helpu i gyflawni ei amcan o dan reoliad 4(1)(c).

(2) Os yw'r panel apelau cofrestru wedi ei fodloni bod person wedi torri'r ddyletswydd ym mharagraff (1), caiff ddod i unrhyw gasgliad y mae'n ystyried ei fod yn briodol.

Duty of parties in registration appeals proceedings

5.—(1) It is the duty of the parties—

(a) to co-operate with the registration appeals panel, and

(b) to assist it in achieving its objective under regulation 4(1)(c).

(2) If the registration appeals panel is satisfied that a person is in breach of the duty in paragraph (1), it may draw any inference that it considers appropriate.

Achosion apelau cofrestru: pan nad oes angen gwrandawiad

6.—(1) Caniateir dyfarnu ar apêl gofrestru sydd gerbron panel apelau cofrestru heb wrandawiad—

(a) os yw'r partïon yn cytuno'n ysgrifenedig y caniateir dyfarnu ar yr achos heb wrandawiad, a

(b) os yw'r panel apelau cofrestru yn penderfynu nad oes angen cynnal gwrandawiad.

(2) Pan ddyfernir ar achos yn unol â pharagraff (1) heb wrandawiad—

(a) caiff cadeirydd y panel wneud penderfyniad terfynol y panel apelau cofrestru;

(b) ar unrhyw adeg yn ystod yr achos caiff y panel apelau cofrestru neu gadeirydd y panel ei gwneud yn ofynnol i wrandawiad apelau cofrestru gael ei gynnal.

Registration appeals proceedings: when a hearing is not necessary

6.—(1) A registration appeal before a registration appeals panel may be determined without a hearing if—

(a) the parties agree in writing that the proceedings may be determined without a hearing, and

(b) the registration appeals panel decides that it is not necessary to hold a hearing.

(2) Where in accordance with paragraph (1) proceedings are determined without a hearing—

(a) the registration appeals panel's final decision may be made by the chair of the panel;

(b) at any stage during the proceedings the registration appeals panel or the chair of the panel may require a registration appeals hearing to be held.

(3) Caiff GCC drwy reolau wneud darpariaeth ynghylch y camau y caiff y partïon neu banel apelau cofrestru eu cymryd neu y mae rhaid i'r partïon neu banel apelau cofrestru eu cymryd er mwyn galluogi'r panel i ddod i benderfyniad o ran a oes angen cynnal gwrandawiad.

Rheoli achos mewn achosion apelau cofrestru

7.—(1) Caiff GCC drwy reolau wneud darpariaeth ynghylch rheoli achos rhagarweiniol mewn perthynas ag achosion apelau cofrestru.

(2) Caiff y rheolau wneud darpariaeth yn benodol—

(a) mai panel apelau cofrestru neu berson a benodir o dan y rheolau sy'n gwneud y gwaith rheoli achos rhagarweiniol;

(b) ynghylch cymwysterau ar gyfer penodiad o'r fath;

(c) ynghylch adolygiadau achos;

(d) ynghylch cyfarwyddydau y caniateir iddynt gael eu rhoi;

(e) ynghylch cofnodion cyfarwyddydau;

(f) ynghylch canlyniadau methu â chydymffurfio â chyfarwyddydau (a gaiff gynnwys pŵer panel apelau cofrestru i ddod i unrhyw gasgliad y mae'n ystyried ei fod yn briodol).

(3) Pan fo'r rheolau yn darparu i berson ac eithrio'r panel apelau cofrestru wneud y gwaith rheoli achos rhagarweiniol, rhaid iddynt ddarparu i'r person hwnnw—

(a) gweithredu'n annibynnol ar y partïon, a

(b) arfer unrhyw bŵer i roi cyfarwyddydau at ddiben sicrhau bod yr apêl yn cael ei chynnal yn gyfiawn, yn ddiymdroi ac yn effeithiol yn unig.

(4) Mae amcan cyffredinol panel apelau cofrestru o dan reoliad 4(1)(c) (i ymdrin ag achosion yn deg ac yn gyfiawn) hefyd yn gymwys i berson o'r fath.

(5) Ni chaiff rheolau a wneir o dan y rheoliad hwn ddarparu ar gyfer dyfarnu costau.

Tystiolaeth mewn achosion apelau cofrestru

8.—(1) Rhaid i banel apelau cofrestru wneud canfyddiad ffeithiol yn unol â phwysau tebygolrwydd.

(2) Nid yw tystiolaeth yn dderbyniol mewn achosion apelau cofrestru oni bai—

(a) y byddai'n dderbyniol mewn achosion sifil yng Nghymru a Lloegr, neu

(b) bod y panel apelau cofrestru yn ystyried bod y dystiolaeth yn berthnasol, a'i bod yn deg derbyn y dystiolaeth honno.

(3) SCW may by rules make provision about the steps which may or must be taken by the parties or a registration appeals panel to enable the panel to reach a decision as to whether it is necessary to hold a hearing.

Case management in registration appeals proceedings

7.—(1) SCW may by rules make provision about preliminary case management in relation to registration appeals proceedings.

(2) The rules may in particular make provision—

(a) for preliminary case management to be carried out by a registration appeals panel or by a person appointed under the rules;

(b) about qualifications for such an appointment;

(c) about case reviews;

(d) about directions that may be given;

(e) about records of directions;

(f) about consequences of failure to comply with directions (which may include the power of a registration appeals panel to draw such inference as it considers appropriate).

(3) Where the rules provide for preliminary case management to be carried out by a person other than the registration appeals panel, they must provide for that person—

(a) to act independently of the parties, and

(b) to exercise any power to give directions only for the purpose of securing the just, expeditious and effective running of the appeal.

(4) The general objective of a registration appeals panel under regulation 4(1)(c) (to deal fairly and justly with cases) also applies to such a person.

(5) Rules made under this regulation may not provide for the award of costs.

Evidence in registration appeals proceedings

8.—(1) A finding of fact by a registration appeals panel must be made on the balance of probabilities.

(2) In registration appeals proceedings evidence is not admissible unless—

(a) it would be admissible in civil proceedings in England and Wales, or

(b) the registration appeals panel considers that the evidence is relevant, and that it is fair to admit it.

(3) Mae tystysgrif sydd wedi ei llofnodi gan swyddog cymwys mewn llys o unrhyw awdurdodaeth bod person wedi ei euogfarnu o drosedd neu, yn yr Alban, euogfarn gryno, yn dystiolaeth bendant o'r drosedd.

(4) Mae tystysgrif bod person wedi ei gynnwys ar restr wahardd(**1**) (at ddibenion adran 117(1)(c) o'r Ddeddf), a ddyroddir gan y person sy'n gyfrifol am gynnal y rhestr, yn dystiolaeth bendant o'r ffaith honno.

(5) Mae tystysgrif a ddyroddir gan gorff perthnasol(**2**) (at ddibenion adran 117(1)(d) o'r Ddeddf) ei fod wedi dyfarnu bod amhariad ar addasrwydd person i ymarfer yn dystiolaeth bendant o'r dyfarniad hwnnw.

(3) A certificate signed by a competent officer of a court of any jurisdiction that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, is conclusive evidence of the offence.

(4) A certificate that a person is included in a barred list(**1**) (for the purposes of section 117(1)(c) of the Act), issued by the person responsible for maintaining the list, is conclusive evidence of that fact.

(5) A certificate issued by a relevant body(**2**) (for the purposes of section 117(1)(d) of the Act) that it has determined that a person's fitness to practise is impaired is conclusive evidence of that determination.

Eithrio'r cyhoedd o wrandawiadau apelau cofrestru

9.—(1) Rhaid cynnal gwrandawiad gerbron panel apelau cofrestru yn gyhoeddus, gyda'r eithriadau a ganlyn.

(2) Rhaid i'r panel apelau cofrestru eithrio'r cyhoedd o unrhyw ran o wrandawiad sy'n ymwneud ag ystyried iechyd corfforol neu iechyd meddwl yr apelydd**,** oni bai—

(a) bod yr apelydd yn gofyn i ran o'r gwrandawiad gael ei chynnal yn gyhoeddus, a

(b) bod y panel apelau cofrestru yn ystyried na fyddai gwneud hynny yn groes i fudd y cyhoedd.

(3) Caiff y panel apelau cofrestru eithrio'r cyhoedd o'r gwrandawiad cyfan neu o ran ohono os yw'n ystyried bod amgylchiadau'r achos yn gorbwyso budd y cyhoedd o ran cynnal y gwrandawiad yn gyhoeddus.

(4) Caiff y panel apelau cofrestru eithrio person o wrandawiad os yw'n ystyried bod ymddygiad y person yn debygol o darfu ar y gwrandawiad.

Exclusion of the public from registration appeals hearings

9.—(1) A hearing before a registration appeals panel must be held in public, with the following exceptions.

(2) The registration appeals panel must exclude the public from any part of a hearing involving consideration of the physical or mental health of the appellant**,** unless—

(a) the appellant requests that part of the hearing to be held in public, and

(b) the registration appeals panel considers that doing so would not be against the public interest.

(3) The registration appeals panel may exclude the public from all or part of a hearing if it considers that the circumstances of the case outweigh the public interest in holding the hearing in public.

(4) The registration appeals panel may exclude a person from a hearing if it considers that the person's conduct is likely to disrupt the hearing.

Achosion apelau cofrestru: gwysion tystion

10.—(1) At ddibenion achosion apelau cofrestru—

(a) caiff panel apelau cofrestru weinyddu llwon,

(b) caiff GCC ohono ei hun ddyroddi gwŷs tyst sy'n ei gwneud yn ofynnol i berson fod yn bresennol mewn gwrandawiad i ddarparu gwybodaeth neu i gyflwyno unrhyw ddogfen, a chaiff unrhyw barti arall ofyn i GCC ddyroddi gwŷs o'r fath.

Registration appeals proceedings: witness summons

10.—(1) For the purposes of registration appeals proceedings—

(a) a registration appeals panel may administer oaths,

(b) SCW may of its own motion issue a witness summons requiring a person to attend a hearing to supply information or to produce any document, and any other party may request SCW to issue such a summons.

(**1**) *Gweler* adran 117(3) am y diffiniad o "rhestr wahardd".
(**2**) *Gweler* adran 117(4) am y diffiniad o "corff perthnasol".

(**1**) *See* section 117(3) for the definition of "barred list".
(**2**) *See* section 117(4) for the definition of "relevant body".

(2) Nid yw unrhyw berson i gael ei orfodi gan wŷs a ddyroddir o dan baragraff (1)(b) i gyflwyno unrhyw ddogfen na allai'r person hwnnw gael ei orfodi i'w chyflwyno mewn achos sifil yng Nghymru a Lloegr.

Mesurau arbennig ar gyfer tystion etc. mewn gwrandawiadau apelau cofrestru

11.—(1) Mae hawlogaeth gan berson sy'n rhoi tystiolaeth mewn gwrandawiad apelau cofrestru, gan gynnwys yr apelydd, i gael mesurau arbennig—

(a) os yw'r person o dan 18 oed, neu

(b) os yw'r panel apelau cofrestru yn ystyried bod y dystiolaeth a roddir gan y person yn debygol o fod o ansawdd llai oherwydd—

(i) anabledd corfforol, anabledd dysgu, problemau iechyd meddwl, salwch neu gyflwr iechyd neu ddibyniaeth ar gyffuriau neu ar alcohol, neu

(ii) ofn neu drallod mewn cysylltiad â rhoi tystiolaeth.

(2) Wrth benderfynu a yw tystiolaeth a roddir gan berson yn debygol o fod o ansawdd llai oherwydd mater a bennir ym mharagraff (1)(b), rhaid i'r panel apelau cofrestru ystyried safbwyntiau'r person o dan sylw.

(3) Caiff panel apelau cofrestru gynnig mesurau arbennig i berson nad oes hawlogaeth ganddo i'w cael o dan baragraff (1) os yw'n meddwl y byddai gwneud hynny er budd y cyhoedd.

(4) Yn y rheoliad hwn ystyr "special measures" ("*mesurau arbennig*") yw unrhyw fesurau arbennig y mae'r panel apelau cofrestru yn ystyried eu bod yn briodol at ddiben gwella ansawdd y dystiolaeth a roddir gan berson yn y gwrandawiad.

(5) Wrth ystyried pa fesur arbennig yn benodol a all fod yn briodol, rhaid i'r panel apelau cofrestru ystyried safbwyntiau'r person o dan sylw.

(6) Caiff person sy'n 18 oed neu'n hŷn ac sydd â'r galluedd i wneud hynny wrthod derbyn mesurau arbennig neu unrhyw fesur arbennig penodol.

(7) Dyfernir a oes gan berson alluedd at ddibenion paragraff (6) yn unol â Deddf Galluedd Meddyliol 2005(**1**).

(8) Dim ond os yw'r panel apelau cofrestru wedi ei fodloni nad yw tystiolaeth y plentyn yn debygol o fod o ansawdd llai o ganlyniad i absenoldeb y mesur neu'r mesurau arbennig y mae'r plentyn yn dymuno eu gwrthod y caiff person sydd o dan 18 oed ("plentyn") ("*child*") wrthod derbyn mesurau arbennig.

(2) No person is to be compelled by a summons issued under paragraph (1)(b) to produce any document which that person could not be compelled to produce in civil proceedings in England and Wales.

Special measures for witnesses etc. in registration appeals hearings

11.—(1) A person giving evidence in a registration appeals hearing, including the appellant, is entitled to special measures if—

(a) the person is under 18, or

(b) the registration appeals panel considers that the quality of evidence given by the person is likely to be diminished by reason of—

(i) physical disability, learning disability, mental health problems, an illness or health condition or a dependence on drugs or alcohol, or

(ii) fear or distress in connection with giving evidence.

(2) In deciding whether the quality of evidence given by a person is likely to be diminished by reason of a matter specified in paragraph (1)(b), the registration appeals panel must take into account the views of the person concerned.

(3) A registration appeals panel may offer special measures to a person not entitled to them under paragraph (1) if it thinks that it would be in the public interest to do so.

(4) In this regulation "special measures" ("*mesurau arbennig*") means such special measures as the registration appeals panel considers appropriate for the purpose of improving the quality of evidence given by a person at the hearing.

(5) In considering which particular special measure may be appropriate, the registration appeals panel must take into account the views of the person concerned.

(6) A person who is 18 or over and who has the capacity to do so may decline to accept special measures or any particular special measure.

(7) Whether a person has capacity for the purposes of paragraph (6) is determined in accordance with the Mental Capacity Act 2005(**1**).

(8) A person who is under 18 (a "child") ("*plentyn*") may decline to accept special measures only if the registration appeals panel is satisfied that the quality of the child's evidence is not likely to be diminished by the absence of the special measure or measures which the child wishes to decline.

(**1**) 2005 p. 9.

(**1**) 2005 c. 9.

(9) Wrth gyrraedd safbwynt fel sy'n ofynnol gan baragraff (8), rhaid i'r panel apelau cofrestru ystyried—

(a) oedran ac aeddfedrwydd y plentyn,

(b) gallu'r plentyn i ddeall canlyniadau rhoi tystiolaeth heb y mesur neu'r mesurau arbennig,

(c) lles pennaf y plentyn,

(d) safbwyntiau rhieni'r plentyn neu unrhyw berson a chanddo gyfrifoldeb rhiant dros y plentyn,

(e) y berthynas (os oes perthynas) rhwng y plentyn ac unrhyw barti yn yr achos,

(f) natur ac amgylchiadau honedig y mater y mae'r achos yn ymwneud ag ef, ac

(g) unrhyw ffactor arall y mae'r panel yn meddwl ei fod yn berthnasol.

(10) Rhaid i banel apelau cofrestru roi cyfarwyddyd sy'n ei gwneud yn ofynnol i unrhyw fesur arbennig y mae wedi ei gynnig gael ei weithredu neu ei ddarparu, ac eithrio pan fo gan y person o dan sylw hawlogaeth i wrthod y mesur arbennig a'i fod wedi gwneud hynny.

Gwrandawiadau apelau cofrestru: y weithdrefn

12.—(1) Mae hawlogaeth gan apelydd i gael ei gynrychioli mewn gwrandawiad apelau cofrestru gan—

(a) cyfreithiwr neu gwnsler,

(b) cynrychiolydd o unrhyw sefydliad proffesiynol, neu

(c) os yw'r panel apelau cofrestru yn cytuno, unrhyw berson arall.

(2) Mae hawlogaeth gan y partïon i roi tystiolaeth.

(3) Ni chaiff person sy'n cynrychioli neu'n cynghori'r apelydd roi tystiolaeth.

(4) Caniateir bwrw ymlaen â gwrandawiad apelau cofrestru hyd yn oed os nad yw'r apelydd yn bresennol ac os nad yw wedi ei gynrychioli, os yw'r panel apelau cofrestru wedi ei fodloni bod pob ymdrech resymol wedi ei gwneud i roi hysbysiad o'r gwrandawiad i'r apelydd.

Rheolau gwrandawiadau apelau cofrestru

13.—(1) Rhaid i GCC wneud rheolau ynghylch y weithdrefn sydd i gael ei dilyn mewn gwrandawiad apelau cofrestru ("rheolau gwrandawiadau apelau cofrestru") ("*registration appeals hearings rules*").

(2) O ran Gweinidogion Cymru—

(a) cânt roi canllawiau i GCC ynghylch cynnwys rheolau gwrandawiadau apelau cofrestru, gan gynnwys canllawiau ar ffurf rheolau enghreifftiol, a

(9) In reaching a view as required by paragraph (8), the registration appeals panel must consider—

(a) the child's age and maturity,

(b) the child's ability to understand the consequences of giving evidence without the special measure or measures,

(c) the child's best interests,

(d) the views of the child's parents or any person with parental responsibility for the child,

(e) the relationship (if any) between the child and any party to the proceedings,

(f) the nature and alleged circumstances of the matter to which the proceedings relate, and

(g) any other factor that the panel thinks is relevant.

(10) A registration appeals panel must give a direction requiring the implementation or provision of any special measure which it has offered, except where the person concerned is entitled to decline the special measure and has done so.

Registration appeals hearings: procedure

12.—(1) An appellant is entitled to be represented in a registration appeals hearing by—

(a) a solicitor or counsel,

(b) a representative from any professional organisation, or

(c) if the registration appeals panel agrees, any other person.

(2) The parties are entitled to give evidence.

(3) A person representing or advising the appellant may not give evidence.

(4) A registration appeals hearing may proceed even if the appellant is not present and not represented, if the registration appeals panel is satisfied that all reasonable efforts have been made to give notice of the hearing to the appellant.

Registration appeals hearings rules

13.—(1) SCW must make rules about the procedure to be followed in a registration appeals hearing ("registration appeals hearings rules") ("*rheolau gwrandawiadau apelau cofrestru*").

(2) The Welsh Ministers—

(a) may give guidance to SCW about the contents of registration appeals hearings rules, including guidance in the form of model rules, and

(b) rhaid iddynt gyhoeddi unrhyw ganllawiau a roddir o dan is-baragraff (a).

(3) Rhaid i GCC, wrth wneud rheolau gwrandawiadau apelau cofrestru, roi sylw i unrhyw ganllawiau a roddir gan Weinidogion Cymru o dan baragraff (2)(a).

(4) Pan fo canllawiau wedi eu rhoi ar ffurf rheolau enghreifftiol rhaid i GCC, ar ôl gwneud unrhyw reolau gwrandawiadau apelau cofrestru, gyhoeddi dogfen sy'n esbonio unrhyw wyriadau sylweddol oddi ar y rheolau enghreifftiol neu unrhyw ychwanegiadau sylweddol atynt.

(5) Mae pŵer GCC i wneud rheolau gwrandawiadau apelau cofrestru yn ddarostyngedig i'r ddarpariaeth a wneir gan y Rheoliadau hyn.

(b) must publish any guidance given under sub-paragraph (a).

(3) SCW must, when making registration appeals hearings rules, have regard to any guidance given by the Welsh Ministers under paragraph (2)(a).

(4) Where guidance has been given in the form of model rules SCW must, after making any registration appeals hearings rules, publish a document explaining any significant departures from or additions to the model rules.

(5) The power of SCW to make registration appeals hearings rules is subject to the provision made by these Regulations.

RHAN 3

Paneli Addasrwydd i Ymarfer

Dehongli Rhan 3

14. Yn y Rhan hon—

ystyr "achos" ("*case*") yw achos sy'n ymwneud ag achos addasrwydd i ymarfer neu achos gorchmynion interim (yn ôl y digwydd) gerbron panel addasrwydd i ymarfer;

ystyr "achos addasrwydd i ymarfer" ("*fitness to practise proceedings*") yw achos gerbron panel addasrwydd i ymarfer y mae Pennod 3 neu Bennod 5(**1**) o Ran 6 o'r Ddeddf yn gymwys iddo;

PART 3

Fitness to Practise Panels

Interpretation of Part 3

14. In this Part—

"case" ("*achos*") means proceedings relating to fitness to practise proceedings or interim orders proceedings (as the case may be) before a fitness to practise panel;

"fitness to practise hearing" ("*gwrandawiad addasrwydd i ymarfer*") means a hearing before a fitness to practise panel in fitness to practise proceedings;

"fitness to practise proceedings" ("*achos addasrwydd i ymarfer*") means proceedings before a fitness to practise panel to which Chapter 3 or Chapter 5(**1**) of Part 6 of the Act applies;

"interim orders hearing" ("*gwrandawiad gorchmynion interim*") means a hearing before a fitness to practise panel in interim orders proceedings;

(**1**) *Gweler* Pennod 5 o Ran 6 o'r Ddeddf (achosion adolygu), yn benodol adran 151 o'r Ddeddf (achosion adolygu). Mae'r panel addasrwydd i ymarfer yn gweinyddu'r system ar gyfer adolygu unrhyw amodau sydd ynghlwm wrth allu person i ymarfer, gorchmynion atal dros dro ac ymgymeriadau sydd wedi eu gosod neu y cytunwyd arnynt (yn ôl y digwydd) mewn cysylltiad â'r person yn dilyn achos addasrwydd i ymarfer.

(**1**) *See* Chapter 5 of Part 6 of the Act (review proceedings), in particular section 151 of the Act (review proceedings). The fitness to practise panel administers the system for the review of any conditions attached to a person's ability to practise, suspension orders and undertakings which have been imposed or agreed (as the case may be) in respect of the person following fitness to practise proceedings..

ystyr "achos gorchmynion interim" ("*interim orders proceedings*") yw achos gerbron panel addasrwydd i ymarfer y mae Pennod 4(**1**) o Ran 6 o'r Ddeddf yn gymwys iddo;

ystyr "gwrandawiad addasrwydd i ymarfer" ("*fitness to practise hearing*") yw gwrandawiad gerbron panel addasrwydd i ymarfer mewn achos addasrwydd i ymarfer;

ystyr "gwrandawiad gorchmynion interim" ("*interim orders hearing*") yw gwrandawiad gerbron panel addasrwydd i ymarfer mewn achos gorchmynion interim;

ystyr "partïon" (***"parties***") yw'r person cofrestredig y mae'r achos addasrwydd i ymarfer neu'r achos gorchmynion interim yn ymwneud ag ef a GCC (neu eu cynrychiolwyr);

ystyr "person cofrestredig" ("*registered person*") yw'r person cofrestredig(**2**) y mae'r atgyfeiriad i'r panel addasrwydd i ymarfer wedi ei wneud mewn cysylltiad ag ef.

"interim orders proceedings" ("*achos gorchmynion interim*") means proceedings before a fitness to practise panel to which Chapter 4(**1**) of Part 6 of the Act applies;

"parties" ("*partïon*") means the registered person to whom the fitness to practise proceedings or interim orders proceedings relate and SCW (or their representatives);

"registered person" ("*person cofrestredig*") means the registered person(**2**) in respect of whom the referral to the fitness to practise panel has been made.

Amcanion cyffredinol paneli addasrwydd i ymarfer

15.—(1) Amcanion cyffredinol panel addasrwydd i ymarfer wrth gyflawni ei swyddogaethau mewn perthynas ag achosion addasrwydd i ymarfer ac achosion gorchmynion interim yw—

(a) diogelu, hybu a chynnal iechyd, diogelwch a llesiant y cyhoedd;

(b) hybu a chynnal—

(i) hyder y cyhoedd mewn gweithwyr gofal cymdeithasol, a

(ii) safon uchel o ymddygiad ac ymarfer ymhlith gweithwyr gofal cymdeithasol; ac

(c) ymdrin â'r achos yn deg ac yn gyfiawn.

General objectives of fitness to practise panels

15.—(1) The general objectives of a fitness to practise panel in carrying out its functions in relation to fitness to practise proceedings and interim orders proceedings are—

(a) to protect, promote and maintain the health, safety and well-being of the public;

(b) to promote and maintain—

(i) public confidence in social care workers, and

(ii) a high standard of conduct and practise among social care workers; and

(c) to deal fairly and justly with the case.

(**1**) *Gweler* Pennod 4 o Ran 6 o'r Ddeddf (gorchmynion interim ac adolygu gorchmynion interim). Ymgymerir ag achosion gorchmynion interim er mwyn galluogi i gyfyngiadau dros dro gael eu gosod mewn cysylltiad â pherson cofrestredig tra ymgymerir ag ymchwiliadau i honiadau a wneir yn erbyn y person ynghylch ei addasrwydd i ymarfer. Os ystyrir bod angen gwneud gorchymyn interim, caniateir i fater gael ei atgyfeirio naill ai i banel addasrwydd i ymarfer neu i banel gorchmynion interim (*gweler* Rhan 4 am ddarpariaeth ynghylch gweithdrefn paneli gorchmynion interim). Os yw 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 o'r Ddeddf (*gweler* adran 144(3) o'r Ddeddf).

(**2**) *Gweler* adran 164 o'r Ddeddf am ystyr "person cofrestredig" yn Rhan 6 o'r Ddeddf.

(**1**) *See* Chapter 4 of Part 6 to the Act (interim orders and review of interim orders). Interim order proceedings are undertaken to enable temporary restrictions to be imposed in respect of a registered person while investigations are undertaken into allegations made against the person about their fitness to practise. If the making of an interim order is considered to be necessary, a matter may be referred either to a fitness to practise panel or to an interim orders panel (*see* Part 4 for provision about the procedure of interim orders panels). If a matter is 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 of the Act (*see* section 144(3) of the Act).

(**2**) *See* section 164 of the Act for the meaning of "registered person" in Part 6 of the Act.

(2) Mae ymdrin ag achos yn deg ac yn gyfiawn yn cynnwys—

(a) ymdrin â'r achos mewn ffyrdd sy'n gymesur â phwysigrwydd yr achos, cymhlethdod y materion, y costau disgwyliedig ac adnoddau'r partïon;

(b) osgoi ffurfioldeb diangen a cheisio sicrhau hyblygrwydd yn yr achosion;

(c) sicrhau, i'r graddau y mae hynny'n ymarferol, fod y partïon yn gallu cymryd rhan lawn yn yr achosion;

(d) defnyddio unrhyw arbenigedd arbennig y panel neu GCC yn effeithiol;

(e) osgoi oedi, i'r graddau y mae hynny'n gydnaws â rhoi ystyriaeth briodol i'r materion.

(2) Dealing with a case fairly and justly includes—

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far a practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the panel or SCW effectively;

(e) avoiding delay, so far as that is compatible with a proper consideration of the issues.

Dyletswydd y partïon mewn achosion addasrwydd i ymarfer ac mewn achosion gorchmynion interim

16.—(1) Dyletswydd y partïon yw—

(a) cydweithredu â'r panel addasrwydd i ymarfer, a

(b) ei helpu i gyflawni ei amcan o dan reoliad 15(1)(c).

(2) Os yw'r panel addasrwydd i ymarfer wedi ei fodloni bod person wedi torri'r ddyletswydd ym mharagraff (1), caiff ddod i unrhyw gasgliad y mae'n ystyried ei fod yn briodol.

Duty of parties in fitness to practise proceedings and in interim orders proceedings

16.—(1) It is the duty of the parties to—

(a) co-operate with the fitness to practise panel, and

(b) assist it in achieving its objective under regulation 15(1)(c).

(2) If the fitness to practise panel is satisfied that a person is in breach of the duty in paragraph (1), it may draw any inference that it considers appropriate.

Achosion addasrwydd i ymarfer: pan nad oes angen gwrandawiad

17.—(1) Caiff panel addasrwydd i ymarfer ddyfarnu ar achosion addasrwydd i ymarfer, ac eithrio achosion o dan adran 151 o'r Ddeddf ("achosion adolygu") heb wrandawiad—

(a) os yw'r partïon yn cytuno'n ysgrifenedig y caniateir dyfarnu ar yr achosion heb wrandawiad,

(b) os yw'r partïon yn cytuno'n ysgrifenedig i'r penderfyniad terfynol sydd i gael ei wneud gan y panel (gan gynnwys manylion am y penderfyniad hwnnw megis y cyfnod y mae gorchymyn i gael effaith ar ei gyfer neu unrhyw amodau sydd i gael eu gosod ar gofrestriad y person cofrestredig),

(c) os gwneir datganiad ysgrifenedig o ffeithiau y cytunwyd arnynt gan—

(i) GCC,

(ii) y person cofrestredig, a

(iii) y panel, a

Fitness to practise proceedings: when a hearing is not necessary

17.—(1) Fitness to practise proceedings, except proceedings under section 151 of the Act ("review proceedings"), may be determined by a fitness to practise panel without a hearing if—

(a) the parties agree in writing that the proceedings may be determined without a hearing,

(b) the parties agree in writing to the final decision which is to be made by the panel (including details of that decision such as the period for which an order is to have effect or any conditions to be imposed on the registered person's registration),

(c) a statement of agreed facts is made in writing by—

(i) SCW,

(ii) the registered person, and

(iii) the panel, and

(d) os yw'r panel yn penderfynu nad oes angen cynnal gwrandawiad.

(2) Caiff panel addasrwydd i ymarfer ddyfarnu ar achosion adolygu o dan adran 151 o'r Ddeddf heb wrandawiad—

(a) os yw'r partïon yn cytuno'n ysgrifenedig y caniateir dyfarnu ar achosion heb wrandawiad,

(b) os yw'r partïon yn cytuno'n ysgrifenedig i'r penderfyniad terfynol sydd i gael ei wneud gan y panel, y mae rhaid iddo fod yn un a bennir ym mharagraff (3), ac

(c) os yw'r panel yn penderfynu nad oes angen cynnal gwrandawiad.

(3) Y penderfyniadau y cyfeirir atynt ym mharagraff (2)(b) yw—

(a) yn achos adolygiad o addasrwydd i ymarfer person cofrestredig sydd wedi cytuno ar ymgymeriadau(**1**), penderfyniad gan y panel addasrwydd i ymarfer i gytuno â'r person fod yr ymgymeriadau yn parhau i gael effaith heb unrhyw amrywiadau,

(b) yn achos adolygiad o addasrwydd i ymarfer person cofrestredig sy'n ddarostyngedig i orchymyn cofrestru amodol(**2**), penderfyniad gan y panel i gadarnhau'r gorchymyn cofrestru amodol heb unrhyw amrywiadau,

(c) yn achos adolygiad o addasrwydd i ymarfer person cofrestredig sy'n ddarostyngedig i orchymyn atal dros dro(**3**), penderfyniad gan y panel i gadarnhau'r gorchymyn atal dros dro heb unrhyw amrywiadau.

(4) Pan ddyfernir ar achosion heb wrandawiad yn unol â pharagraff (1) neu (2)—

(a) caiff cadeirydd y panel wneud penderfyniad terfynol y panel;

(b) ar unrhyw adeg yn ystod yr achosion caiff y panel neu gadeirydd y panel ei gwneud yn ofynnol i wrandawiad gael ei gynnal.

(5) Caiff GCC drwy reolau wneud darpariaeth ynghylch y camau y caiff y partïon neu banel addasrwydd i ymarfer eu cymryd neu y mae rhaid i'r partïon neu banel addasrwydd i ymarfer eu cymryd er mwyn galluogi'r panel i ddod i benderfyniad o ran a oes angen cynnal gwrandawiad addasrwydd i ymarfer.

(**1**) *Gweler* adran 151(1) o'r Ddeddf. Caniateir cytuno ar ymgymeriadau o dan adran 136(1), 152(5) neu (6), 153(4), 154(4) neu 155(7) o'r Ddeddf.

(**2**) *Gweler* adran 151(3) o'r Ddeddf. Caniateir i orchmynion cofrestru amodol gael eu gwneud, eu cadarnhau neu eu hamrywio o dan adran 138(7), 152(8)(c), 153(6) neu (7), 154(8)(c) neu 155(10)(c) o'r Ddeddf.

(**3**) *Gweler* adran 151(5) o'r Ddeddf.

(d) the panel decides that it is not necessary to hold a hearing.

(2) Review proceedings under section 151 of the Act may determined by a fitness to practise panel without a hearing if—

(a) the parties agree in writing that the proceedings may be determined without a hearing,

(b) the parties agree in writing to the final decision to be made by the panel, which must be one specified in paragraph (3), and

(c) the panel decides that it is not necessary to hold hearing.

(3) The decisions referred to in paragraph (2)(b) are—

(a) in the case of a review of the fitness to practise of a registered person who has agreed undertakings(**1**), a decision by the fitness to practise panel to agree with the person that the undertakings remain in effect with no variations,

(b) in the case of a review of the fitness to practise of a registered person who is subject to a conditional registration order(**2**), a decision by the panel to confirm the conditional registration order with no variations,

(c) in the case of a review of the fitness to practise of a registered person who is subject to a suspension order(**3**), a decision by the panel to confirm the suspension order with no variations.

(4) Where in accordance with paragraph (1) or (2) proceedings are to be determined without a hearing—

(a) the panel's final decision may be made by the chair of the panel;

(b) at any stage during the proceedings the panel or the chair of the panel may require a hearing to be held.

(5) SCW may by rules make provision about the steps which may or must be taken by the parties or a fitness to practise panel to enable the panel to reach a decision as to whether it is necessary to hold a fitness to practise hearing.

(**1**) *See* section 151(1) of the Act. Undertakings may be agreed under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7) of the Act.

(**2**) *See* section 151(3) of the Act. Conditional registration orders may be made, confirmed or varied under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c) of the Act.

(**3**) *See* section 151(5) of the Act.

Achosion gorchmynion interim: pan nad oes angen gwrandawiad

18.—(1) Caiff panel addasrwydd i ymarfer ddyfarnu ar achosion gorchmynion interim heb wrandawiad—

(a) os yw'r partïon yn cytuno'n ysgrifenedig y caniateir dyfarnu ar yr achosion heb wrandawiad,

(b) os yw'r partïon yn cytuno'n ysgrifenedig i'r gorchymyn interim sydd i gael ei wneud gan y panel, neu (mewn achos pan fo'r panel yn ystyried adolygiad o orchymyn interim) i'r penderfyniad a bennir yn adran 147(1)(b) i (e) o'r Ddeddf sydd i gael ei wneud gan y panel, gan gynnwys—

(i) y cyfnod y mae'r gorchymyn interim i gael effaith ar ei gyfer, a

(ii) yn achos gorchymyn cofrestru amodol interim, yr amodau sydd i gael eu gosod ar gofrestriad y person cofrestredig â GCC,

(c) os gwneir datganiad ysgrifenedig o ffeithiau y cytunwyd arnynt gan—

(i) GCC,

(ii) y person cofrestredig, a

(iii) y panel, a

(d) os yw'r panel yn penderfynu nad oes angen cynnal gwrandawiad.

(2) Pan ddyfernir ar achosion heb wrandawiad yn unol â pharagraff (1)—

(a) caiff cadeirydd y panel wneud neu gadarnhau gorchymyn interim;

(b) ar unrhyw adeg yn ystod yr achosion caiff y panel neu gadeirydd y panel ei gwneud yn ofynnol i wrandawiad gael ei gynnal.

(3) Caiff GCC drwy reolau wneud darpariaeth ynghylch y camau y caiff y partïon neu banel addasrwydd i ymarfer eu cymryd neu y mae rhaid i'r partïon neu banel addasrwydd i ymarfer eu cymryd er mwyn galluogi'r panel i ddod i benderfyniad o ran a oes angen cynnal gwrandawiad gorchmynion interim.

Rheoli achos mewn achosion addasrwydd i ymarfer ac mewn achosion gorchmynion interim

19.—(1) Caiff GCC drwy reolau wneud darpariaeth ynghylch rheoli achos rhagarweiniol mewn perthynas ag achosion addasrwydd i ymarfer ac achosion gorchmynion interim.

(2) Caiff y rheolau wneud darpariaeth yn benodol—

(a) mai panel addasrwydd i ymarfer neu berson a benodir o dan y rheolau sy'n gwneud y gwaith rheoli achos rhagarweiniol;

Interim orders proceedings: when a hearing is not necessary

18.—(1) Interim orders proceedings may be determined by a fitness to practise panel without a hearing if—

(a) the parties agree in writing that the proceedings may be determined without a hearing,

(b) the parties agree in writing to the interim order which is to be made by the panel, or (in a case where the panel is considering the review of an interim order) to the decision specified in section 147(1)(b) to (e) of the Act which is to be made by the panel, including—

(i) the period for which the interim order is to have effect, and

(ii) in the case of an interim conditional registration order, the conditions to be imposed on the registered person's registration with SCW,

(c) a statement of agreed facts is made in writing by—

(i) SCW,

(ii) the registered person, and

(iii) the panel, and

(d) the panel decides that it is not necessary to hold a hearing.

(2) Where in accordance with paragraph (1) proceedings are to be determined without a hearing—

(a) an interim order may be made or confirmed by the chair of the panel;

(b) at any stage during the proceedings the panel or the chair of the panel may require a hearing to be held.

(3) SCW may by rules make provision about the steps which may or must be taken by the parties or a fitness to practise panel to enable the panel to reach a decision as to whether it is necessary to hold an interim orders hearing.

Case management in fitness to practise proceedings and in interim orders proceedings

19.—(1) SCW may by rules make provision about preliminary case management in relation to fitness to practice proceedings and interim orders proceedings.

(2) The rules may in particular make provision—

(a) for preliminary case management to be carried out by a fitness to practise panel or by a person appointed under the rules;

(b) ynghylch cymwysterau ar gyfer penodiad o'r fath;

(c) ynghylch adolygiadau achos;

(d) ynghylch cyfarwyddydau y caniateir iddynt gael eu rhoi;

(e) ynghylch cofnodion cyfarwyddydau;

(f) ynghylch canlyniadau methu â chydymffurfio â chyfarwyddydau (a gaiff gynnwys pŵer panel addasrwydd i ymarfer i ddod i unrhyw gasgliad y mae'n ystyried ei fod yn briodol).

(3) Pan fo'r rheolau yn darparu i berson ac eithrio'r panel addasrwydd i ymarfer wneud y gwaith rheoli achos rhagarweiniol, rhaid iddynt ddarparu i'r person hwnnw—

(a) gweithredu'n annibynnol ar y partïon, a

(b) arfer unrhyw bŵer i roi cyfarwyddydau at ddiben sicrhau bod yr apêl yn cael ei chynnal yn gyfiawn, yn ddiymdroi ac yn effeithiol yn unig.

(4) Mae amcan cyffredinol panel addasrwydd i ymarfer o dan reoliad 15(1)(c) (i ymdrin ag achosion yn deg ac yn gyfiawn) hefyd yn gymwys i berson o'r fath.

(5) Ni chaiff rheolau a wneir o dan y rheoliad hwn ddarparu ar gyfer dyfarnu costau.

Tystiolaeth mewn achosion addasrwydd i ymarfer ac mewn achosion gorchmynion interim

20.—(1) Rhaid i banel addasrwydd i ymarfer mewn achosion addasrwydd i ymarfer wneud canfyddiad ffeithiol yn unol â phwysau tebygolrwydd.

(2) Nid yw tystiolaeth yn dderbyniol mewn achosion addasrwydd i ymarfer ac achosion gorchmynion interim oni bai—

(a) y byddai'n dderbyniol mewn achosion sifil yng Nghymru a Lloegr, neu

(b) bod y panel addasrwydd i ymarfer yn ystyried bod y dystiolaeth yn berthnasol, a'i bod yn deg derbyn y dystiolaeth honno.

(3) Mae tystysgrif sydd wedi ei llofnodi gan swyddog cymwys mewn llys o unrhyw awdurdodaeth bod person wedi ei euogfarnu o drosedd neu, yn yr Alban, euogfarn gryno, yn dystiolaeth bendant o'r drosedd.

(4) Mae tystysgrif bod person wedi ei gynnwys ar restr wahardd (at ddibenion adran 117(1)(c) o'r Ddeddf), a ddyroddir gan y person sy'n gyfrifol am gynnal y rhestr, yn dystiolaeth bendant o'r ffaith honno.

(b) about qualifications for such an appointment;

(c) about case reviews;

(d) about directions that may be given;

(e) about records of directions;

(f) about consequences of failure to comply with directions (which may include the power of a fitness to practise panel to draw such inference as it considers appropriate).

(3) Where the rules provide for preliminary case management to be carried out by a person other than the fitness to practise panel, they must provide for that person—

(a) to act independently of the parties, and

(b) to exercise any power to give directions only for the purpose of securing the just, expeditious and effective running of the appeal.

(4) The general objective of a fitness to practise panel under regulation 15(1)(c) (to deal fairly and justly with cases) also applies to such a person.

(5) Rules made under this regulation may not provide for the award of costs.

Evidence in fitness to practise proceedings and in interim orders proceedings

20.—(1) A finding of fact by a fitness to practise panel in fitness to practise proceedings must be made on the balance of probabilities.

(2) In fitness to practice proceedings and interim orders proceedings evidence is not admissible unless—

(a) it would be admissible in civil proceedings in England and Wales, or

(b) the fitness to practise panel considers that the evidence is relevant, and that it is fair to admit it.

(3) A certificate signed by a competent officer of a court of any jurisdiction that a person has been convicted of a criminal offence, or in Scotland, an extract conviction, is conclusive evidence of the offence.

(4) A certificate that a person is included in a barred list (for the purposes of section 117(1)(c) of the Act), issued by the person responsible for maintaining the list, is conclusive evidence of that fact.

(5) Mae tystysgrif a ddyroddir gan gorff perthnasol (at ddibenion adran 117(1)(d) o'r Ddeddf) ei fod wedi dyfarnu bod amhariad ar addasrwydd person i ymarfer yn dystiolaeth bendant o'r dyfarniad hwnnw.

Eithrio'r cyhoedd o wrandawiadau addasrwydd i ymarfer

21.—(1) Rhaid cynnal gwrandawiad addasrwydd i ymarfer yn gyhoeddus, gyda'r eithriadau a ganlyn.

(2) Rhaid i'r panel addasrwydd i ymarfer eithrio'r cyhoedd o unrhyw ran o wrandawiad sy'n ymwneud ag ystyried iechyd corfforol neu iechyd meddwl y person cofrestredig**,** oni bai—

(a) bod y person cofrestredig yn gofyn i ran o'r gwrandawiad gael ei chynnal yn gyhoeddus, a

(b) bod y panel addasrwydd i ymarfer yn ystyried na fyddai gwneud hynny yn groes i fudd y cyhoedd.

(3) Caiff y panel addasrwydd i ymarfer eithrio'r cyhoedd o'r gwrandawiad cyfan neu o ran ohono os yw'n ystyried bod amgylchiadau'r achos yn gorbwyso budd y cyhoedd o ran cynnal y gwrandawiad yn gyhoeddus.

(4) Caiff y panel addasrwydd i ymarfer eithrio person o wrandawiad os yw'n ystyried bod ymddygiad y person yn debygol o darfu ar y gwrandawiad.

Eithrio'r cyhoedd o wrandawiadau gorchmynion interim

22.—(1) Rhaid eithrio'r cyhoedd o wrandawiad gorchmynion interim oni bai—

(a) bod y person cofrestredig yn gofyn i'r gwrandawiad gael ei gynnal yn gyhoeddus, a

(b) bod y panel addasrwydd i ymarfer yn ystyried na fyddai gwneud hynny yn groes i fudd y cyhoedd.

(2) Pan gynhelir gwrandawiad yn gyhoeddus, caiff y panel addasrwydd i ymarfer eithrio person o'r gwrandawiad os yw'n meddwl bod ymddygiad y person yn debygol o darfu ar y gwrandawiad.

Achosion addasrwydd i ymarfer ac achosion gorchmynion interim: gwysion tystion

23.—(1) At ddibenion achosion addasrwydd i ymarfer ac achosion gorchmynion interim—

(a) caiff panel addasrwydd i ymarfer weinyddu llwon,

(5) A certificate issued by a relevant body (for the purposes of section 117(1)(d) of the Act) that it has determined that a person's fitness to practise is impaired is conclusive evidence of that determination.

Exclusion of the public from fitness to practise hearings

21.—(1) A fitness to practise hearing must be held in public, with the following exceptions.

(2) The fitness to practise panel must exclude the public from any part of a hearing involving consideration of the physical or mental health of the registered person**,** unless—

(a) the registered person requests that part of the hearing to be held in public, and

(b) the fitness to practise panel considers that doing so would not be against the public interest.

(3) The fitness to practise panel may exclude the public from all or part of a hearing if it considers that the circumstances of the case outweigh the public interest in holding the hearing in public.

(4) The fitness to practise panel may exclude a person from a hearing if it considers that the person's conduct is likely to disrupt the hearing.

Exclusion of the public from interim orders hearings

22.—(1) The public must be excluded from an interim orders hearing unless—

(a) the registered person requests that the hearing should be held in pubic, and

(b) the fitness to practise panel considers that doing so would not be against the public interest.

(2) In the case of a hearing held in public, the fitness to practise panel may exclude a person from the hearing if it thinks that the person's conduct is likely to disrupt the hearing.

Fitness to practise proceedings and interim orders proceedings: witness summons

23.—(1) For the purposes of fitness to practise proceedings and interim orders proceedings—

(a) a fitness to practise panel may administer oaths,

(b) caiff GCC ohono ei hun ddyroddi gwŷs tyst sy'n ei gwneud yn ofynnol i berson fod yn bresennol mewn gwrandawiad i ddarparu gwybodaeth neu i gyflwyno unrhyw ddogfen, a chaiff unrhyw barti arall ofyn i GCC ddyroddi gwŷs o'r fath.

(2) Nid yw unrhyw berson i gael ei orfodi gan wŷs a ddyroddir o dan baragraff (1)(b) i gyflwyno unrhyw ddogfen na allai'r person hwnnw gael ei orfodi i'w chyflwyno mewn achos sifil yng Nghymru a Lloegr.

Mesurau arbennig ar gyfer tystion etc. mewn gwrandawiadau addasrwydd i ymarfer ac mewn gwrandawiadau gorchmynion interim

24.—(1) Mae hawlogaeth gan berson sy'n rhoi tystiolaeth mewn gwrandawiad addasrwydd i ymarfer neu wrandawiad gorchmynion interim, gan gynnwys y person cofrestredig, i gael mesurau arbennig—

(a) os yw'r person o dan 18 oed, neu

(b) os yw'r panel addasrwydd i ymarfer yn ystyried bod y dystiolaeth a roddir gan y person yn debygol o fod o ansawdd llai oherwydd—

(i) anabledd corfforol, anabledd dysgu, problemau iechyd meddwl, salwch neu gyflwr iechyd neu ddibyniaeth ar gyffuriau neu ar alcohol, neu

(ii) ofn neu drallod mewn cysylltiad â rhoi tystiolaeth.

(2) Mae gan berson sy'n rhoi tystiolaeth mewn gwrandawiad addasrwydd i ymarfer neu mewn gwrandawiad gorchmynion interim hawlogaeth i gael mesurau arbennig hefyd os yw'r mater y mae'r achos yn ymwneud ag ef o natur rywiol a bod y person yn ddioddefwr honedig.

(3) Wrth benderfynu a yw tystiolaeth a roddir gan berson yn debygol o fod o ansawdd llai oherwydd mater a bennir ym mharagraff (1)(b), rhaid i'r panel addasrwydd i ymarfer ystyried safbwyntiau'r person o dan sylw.

(4) Caiff panel addasrwydd i ymarfer gynnig mesurau arbennig i berson nad oes hawlogaeth ganddo i'w cael o dan baragraff (1) neu (2), os yw'n meddwl bod gwneud hynny er budd y cyhoedd.

(5) Ystyr "special measures" ("*mesurau arbennig*") yw unrhyw fesurau arbennig y mae'r panel addasrwydd i ymarfer yn ystyried eu bod yn briodol at ddiben gwella ansawdd y dystiolaeth a roddir gan berson yn y gwrandawiad.

(6) Wrth ystyried pa fesurau arbennig yn benodol a all fod yn briodol, rhaid i'r panel addasrwydd i ymarfer ystyried safbwyntiau'r person o dan sylw.

(b) SCW may of its own motion issue a witness summons requiring a person to attend a hearing to supply information or to produce any document, and any other party may request SCW to issue such a summons.

(2) No person is to be compelled by a summons issued under paragraph (1)(b) to produce any document which that person could not be compelled to produce in civil proceedings in England and Wales.

Special measures for witnesses etc. in fitness to practise hearings and in interim orders hearings

24.—(1) A person giving evidence in a fitness to practice hearing or an interim orders hearing, including the registered person, is entitled to special measures if—

(a) the person is under 18, or

(b) the fitness to practise panel considers that the quality of evidence given by the person is likely to be diminished by reason of—

(i) physical disability, learning disability, mental health problems, an illness or health condition or a dependency on drugs or alcohol, or

(ii) fear or distress in connection with giving evidence.

(2) A person giving evidence in a fitness to practise hearing or in an interim orders hearing is also entitled to special measures if the matter to which the proceedings relate is of a sexual nature and the person is an alleged victim.

(3) In deciding whether the quality of evidence given by a person is likely to be diminished by reason of a matter specified in paragraph (1)(b), the fitness to practise panel must take into account the views of the person concerned.

(4) A fitness to practise panel may offer special measures to a person not entitled to them under paragraph (1) or (2), if it thinks that this is in the public interest.

(5) "Special measures" ("*mesurau arbennig*") means such special measures as the fitness to practise panel considers appropriate for the purpose of improving the quality of evidence given by a person at the hearing.

(6) In considering which particular special measures may be appropriate, the fitness to practise panel must take into account the views of the person concerned.

(7) Caiff person sy'n 18 oed neu'n hŷn ac sydd â'r galluedd i wneud hynny wrthod derbyn mesurau arbennig neu unrhyw fesur arbennig penodol.

(8) Dyfernir a oes gan berson alluedd at ddibenion paragraff (7) yn unol â Deddf Galluedd Meddyliol 2005.

(9) Dim ond os yw'r panel addasrwydd i ymarfer wedi ei fodloni nad yw tystiolaeth y plentyn yn debygol o fod o ansawdd llai o ganlyniad i absenoldeb y mesur neu'r mesurau arbennig y mae'r plentyn yn dymuno eu gwrthod y caiff person sydd o dan 18 oed ("plentyn") ("*child*") wrthod derbyn mesurau arbennig neu unrhyw fesur arbennig penodol.

(10) Wrth gyrraedd safbwynt fel sy'n ofynnol gan baragraff (9), rhaid i'r panel addasrwydd i ymarfer ystyried—

(a) oedran ac aeddfedrwydd y plentyn,

(b) gallu'r plentyn i ddeall canlyniadau rhoi tystiolaeth heb y mesur neu'r mesurau arbennig,

(c) lles pennaf y plentyn,

(d) safbwyntiau rhieni'r plentyn neu unrhyw berson a chanddo gyfrifoldeb rhiant dros y plentyn,

(e) y berthynas (os oes perthynas) rhwng y plentyn ac unrhyw barti yn yr achos,

(f) natur ac amgylchiadau honedig y mater y mae'r achos yn ymwneud ag ef, ac

(g) unrhyw ffactor arall y mae'r panel yn meddwl ei fod yn berthnasol.

(11) Rhaid i banel addasrwydd i ymarfer roi cyfarwyddyd sy'n ei gwneud yn ofynnol i unrhyw fesur arbennig y mae wedi ei gynnig gael ei weithredu neu ei ddarparu, ac eithrio pan fo gan y person o dan sylw hawlogaeth i wrthod y mesur arbennig a'i fod wedi gwneud hynny.

(12) Os yw'r mater y mae'r achos yn ymwneud ag ef o natur rywiol, ni chaiff y person cofrestredig groesholi dioddefwr honedig yn bersonol, oni bai—

(a) bod y dioddefwr honedig wedi cydsynio i hyn, a

(b) nad yw'r panel addasrwydd i ymarfer yn ystyried bod ffeithiau honedig y mater yn gyfystyr â, neu'n debygol o fod yn gyfystyr â, throsedd rywiol o dan adran 62 o Ddeddf Cyfiawnder Ieuenctid a Thystiolaeth Droseddol 1999(**1**).

(7) A person who is 18 or over and who has the capacity to do so may decline to accept special measures or any particular special measure.

(8) Whether a person has capacity for the purposes of paragraph (7) is determined in accordance with the Mental Capacity Act 2005.

(9) A person who is under 18 (a "child") ("*plentyn*") may decline to accept special measures or any particular special measure only if the fitness to practise panel is satisfied that the quality of the child's evidence is not likely to be diminished by the absence of the special measure or measures which the child wishes to decline.

(10) In reaching a view as required by paragraph (9), the fitness to practise panel must consider—

(a) the child's age and maturity,

(b) the child's ability to understand the consequences of giving evidence without the special measure or measures,

(c) the child's best interests,

(d) the views of the child's parents or any person with parental responsibility for the child,

(e) the relationship (if any) between the child and any party to the proceedings ,

(f) the nature and alleged circumstances of the matter to which the proceedings relate, and

(g) any other factor that the panel thinks is relevant.

(11) A fitness to practise panel must give a direction requiring the implementation or provision of any special measure which it has offered, except where the person concerned is entitled to decline the special measure and has done so.

(12) If the matter to which the proceedings relate is of a sexual nature, the registered person may not personally cross-examine an alleged victim, unless—

(a) the alleged victim has consented to this, and

(b) the fitness to practise panel does not consider that the alleged facts of the matter amount to, or are likely to amount to, a sexual offence under section 62 of the Youth Justice and Criminal Evidence Act 1999(**1**).

(**1**) 1999 p. 23.

(**1**) 1999 c. 23.

(13) Os yw paragraff (12) yn golygu nad oes caniatâd gan y person cofrestredig i groesholi person yn bersonol, rhaid i'r panel addasrwydd i ymarfer roi cyfle digonol i'r person cofrestredig i benodi cynrychiolydd i wneud hynny.

(14) Os nad yw'r person cofrestredig yn penodi cynrychiolydd o dan baragraff (13), ond ei fod yn dymuno bod dioddefwr honedig yn cael ei groesholi, rhaid i GCC benodi cynrychiolydd i groesholi'r person ar ran y person cofrestredig.

Gwrandawiadau addasrwydd i ymarfer a gwrandawiadau gorchmynion interim: y weithdrefn

25.—(1) Mae hawlogaeth gan berson cofrestredig i gael ei gynrychioli mewn gwrandawiad addasrwydd i ymarfer neu wrandawiad gorchmynion interim gan—

(a) cyfreithiwr neu gwnsler,

(b) cynrychiolydd o unrhyw sefydliad proffesiynol, neu

(c) os yw'r panel addasrwydd i ymarfer yn cytuno, unrhyw berson arall.

(2) Mae hawlogaeth gan y partïon i roi tystiolaeth.

(3) Ni chaiff person sy'n cynrychioli neu'n cynghori'r person cofrestredig roi tystiolaeth.

(4) Caniateir bwrw ymlaen â gwrandawiad addasrwydd i ymarfer neu wrandawiad gorchmynion interim hyd yn oed os nad yw'r person cofrestredig yn bresennol ac os nad yw wedi ei gynrychioli, os yw'r panel addasrwydd i ymarfer wedi ei fodloni bod pob ymdrech resymol wedi ei gwneud i roi hysbysiad o'r gwrandawiad i'r person.

Rheolau gwrandawiadau addasrwydd i ymarfer a gwrandawiadau gorchmynion interim

26.—(1) Rhaid i GCC wneud rheolau ynghylch y weithdrefn sydd i gael ei dilyn mewn—

(a) gwrandawiad addasrwydd i ymarfer ("rheolau gwrandawiadau addasrwydd i ymarfer") ("*fitness to practise hearings rules*"), a

(b) gwrandawiad gorchmynion interim ("addasrwydd i ymarfer: rheolau gwrandawiadau gorchmynion interim") ("*fitness to practise: interim orders hearings rules*").

(2) O ran Gweinidogion Cymru—

(a) cânt roi canllawiau (gan gynnwys canllawiau ar ffurf rheolau enghreifftiol) i GCC ynghylch cynnwys—

(i) rheolau gwrandawiadau addasrwydd i ymarfer, a

(13) If paragraph (12) means that the registered person is not permitted personally to cross-examine a person, the fitness to practise panel must give the registered person adequate opportunity to appoint a representative to do so.

(14) If the registered person does not appoint a representative under paragraph (13), but wishes an alleged victim to be cross-examined, SCW must appoint a representative to cross-examine the person on behalf of the registered person.

Fitness to practise hearings and interim orders hearings: procedure

25.—(1) A registered person is entitled to be represented in a fitness to practise hearing or an interim orders hearing by—

(a) a solicitor or counsel,

(b) a representative from any professional organisation, or

(c) if the fitness to practise panel agrees, any other person.

(2) The parties are entitled to give evidence.

(3) A person representing or advising the registered person may not give evidence.

(4) A fitness to practise hearing or an interim orders hearing may proceed even if the registered person is not present and not represented, if the fitness to practise panel is satisfied that all reasonable efforts have been made to give notice of the hearing to the person.

Fitness to practise hearings and interim orders hearings rules

26.—(1) SCW must make rules about the procedure to be followed in—

(a) a fitness to practise hearing ("fitness to practise hearings rules") ("*rheolau gwrandawiadau addasrwydd i ymarfer*"), and

(b) an interim orders hearing ("fitness to practise: interim orders hearings rules") ("*addasrwydd i ymarfer: rheolau gwrandawiadau gorchmynion interim*").

(2) The Welsh Ministers—

(a) may give guidance (including guidance in the form of model rules) to SCW about the contents of—

(i) fitness to practise hearings rules, and

(ii) addasrwydd i ymarfer: rheolau gwrandawiadau gorchmynion interim, a

(b) rhaid iddynt gyhoeddi unrhyw ganllawiau a roddir o dan is-baragraff (a).

(3) Rhaid i GCC, wrth wneud unrhyw reolau yn unol â pharagraff (1), roi sylw i unrhyw ganllawiau a roddir gan Weinidogion Cymru o dan baragraff (2)(a).

(4) Pan fo canllawiau wedi eu rhoi ar ffurf rheolau enghreifftiol rhaid i GCC, ar ôl gwneud unrhyw reolau yn unol â pharagraff (1), gyhoeddi dogfen sy'n esbonio unrhyw wyriadau sylweddol oddi ar y rheolau enghreifftiol neu unrhyw ychwanegiadau atynt.

(5) Mae pŵer GCC i wneud rheolau o dan baragraff (1) yn ddarostyngedig i'r ddarpariaeth a wneir gan y Rheoliadau hyn.

(ii) fitness to practise: interim orders hearings rules, and

(b) must publish any guidance given under sub-paragraph (a).

(3) SCW must, when making any rules in accordance with paragraph (1), have regard to any guidance given by the Welsh Ministers under paragraph (2)(a).

(4) Where guidance has been given in the form of model rules SCW must, after making any rules in accordance in paragraph (1), publish a document explaining any significant departures from or additions to the model rules.

(5) The power of SCW to make rules under paragraph (1) is subject to the provision made by these Regulations.

RHAN 4

Paneli gorchmynion interim

Dehongli Rhan 4

27. Yn y Rhan hon—

ystyr "achos" ("*case*") yw achos sy'n ymwneud ag achos interim gerbron panel gorchmynion interim;

ystyr "achos gorchmynion interim" ("*interim orders proceedings*") yw achos gerbron panel gorchmynion interim y mae Pennod 4(**1**) o Ran 6 o'r Ddeddf yn gymwys iddo;

ystyr "gwrandawiad gorchmynion interim" ("*interim orders hearing*") yw gwrandawiad gerbron panel gorchmynion interim mewn achos gorchmynion interim;

ystyr "partïon" ("*parties*") yw'r person cofrestredig y mae achos gorchmynion interim yn ymwneud ag ef a GCC (neu eu cynrychiolwyr);

ystyr "person cofrestredig" ("*registered person*") yw'r person cofrestredig(**2**) y mae'r atgyfeiriad i'r panel gorchmynion interim wedi ei wneud mewn cysylltiad ag ef.

PART 4

Interim orders panels

Interpretation of Part 4

27. In this Part—

"case" ("*achos*") means proceedings relating to interim proceedings before an interim orders panel;

"interim orders hearing" ("*gwrandawiad gorchmynion interim*") means a hearing before an interim orders panel in interim orders proceedings;

"interim orders proceedings" ("*achos gorchmynion interim*") means proceedings before an interim orders panel to which Chapter 4(**1**) of Part 6 of the Act applies;

"parties" ("*partïon*") means the registered person to whom interim orders proceedings relate and SCW (or their representatives);

"registered person" ("*person cofrestredig*") means the registered person(**2**) in respect of whom the referral to the interim orders panel has been made.

(**1**) *Gweler* Pennod 4 o Ran 6 o'r Ddeddf (gorchmynion interim ac adolygu gorchmynion interim). Ymgymerir ag achosion gorchmynion interim er mwyn galluogi i gyfyngiadau dros dro gael eu gosod mewn cysylltiad â pherson cofrestredig tra ymgymerir ag ymchwiliadau i honiadau a wneir yn erbyn y person ynghylch ei addasrwydd i ymarfer. Os ystyrir bod angen gwneud gorchymyn interim, caniateir i fater gael ei atgyfeirio i banel addasrwydd i ymarfer neu banel gorchmynion interim (gweler Rhan 3 am ddarpariaeth ynghylch gweithdrefn paneli addasrwydd i ymarfer).

(**2**) *Gweler* adran 164 o'r Ddeddf am ystyr "person cofrestredig" yn Rhan 6 o'r Ddeddf.

(**1**) *See* Chapter 4 of Part 6 to the Act (interim orders and review of interim orders). Interim order proceedings are undertaken to enable temporary restrictions to be imposed in respect of a registered person while investigations are undertaken into allegations made against the person about their fitness to practise. If the making of an interim order is considered to be necessary, a matter may be referred to a fitness to practise panel or an interim orders panel (see Part 3 for provision about the procedure of fitness to practise panels).

(**2**) *See* section 164 of the Act for the meaning of "registered person" in Part 6 of the Act.

Amcanion cyffredinol paneli gorchmynion interim

28.—(1) Amcanion cyffredinol panel gorchmynion interim wrth gyflawni ei swyddogaethau mewn perthynas ag achosion gorchmynion interim yw—

(a) diogelu, hybu a chynnal iechyd, diogelwch a llesiant y cyhoedd;

(b) hybu a chynnal—

(i) hyder y cyhoedd mewn gweithwyr gofal cymdeithasol, a

(ii) safon uchel o ymddygiad ac ymarfer ymhlith gweithwyr gofal cymdeithasol; ac

(c) ymdrin â'r achos yn deg ac yn gyfiawn.

(2) Mae ymdrin ag achos yn deg ac yn gyfiawn yn cynnwys—

(a) ymdrin â'r achos mewn ffyrdd sy'n gymesur â phwysigrwydd yr achos, cymhlethdod y materion, y costau disgwyliedig ac adnoddau'r partïon;

(b) osgoi ffurfioldeb diangen a cheisio sicrhau hyblygrwydd yn yr achosion;

(c) sicrhau, i'r graddau y mae hynny'n ymarferol, fod y partïon yn gallu cymryd rhan lawn yn yr achosion;

(d) defnyddio unrhyw arbenigedd arbennig y panel neu GCC yn effeithiol;

(e) osgoi oedi, i'r graddau y mae hynny'n gydnaws â rhoi ystyriaeth briodol i'r materion.

General objectives of interim orders panels

28.—(1) The general objectives of an interim orders panel in carrying out its functions in relation to interim orders proceedings are—

(a) to protect, promote and maintain the health, safety and well-being of the public;

(b) to promote and maintain—

(i) public confidence in social care workers, and

(ii) a high standard of conduct and practise among social care workers; and

(c) to deal fairly and justly with the case.

(2) Dealing with a case fairly and justly includes—

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far a practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the panel or SCW effectively;

(e) avoiding delay, so far as that is compatible with a proper consideration of the issues.

Dyletswydd y partïon mewn achosion gorchmynion interim

29.—(1) Dyletswydd y partïon yw—

(a) cydweithredu â'r panel gorchmynion interim, a

(b) ei helpu i gyflawni ei amcan o dan reoliad 28(1)(c).

(2) Os yw'r panel gorchmynion interim wedi ei fodloni bod person wedi torri'r ddyletswydd ym mharagraff (1), caiff ddod i unrhyw gasgliad y mae'n ystyried ei fod yn briodol.

Duty of parties in interim orders proceedings

29.—(1) It is the duty of the parties to—

(a) co-operate with the interim orders panel, and

(b) assist it in achieving its objective under regulation 28(1)(c).

(2) If the interim orders panel is satisfied that a person is in breach of the duty in paragraph (1), it may draw any inference that it considers appropriate.

Achosion gorchmynion interim: pan nad oes angen gwrandawiad

30.—(1) Caiff panel gorchmynion interim ddyfarnu ar achosion gorchmynion interim heb wrandawiad—

, ,

(a) os yw r partïon yn cytuno n ysgrifenedig y caniateir dyfarnu ar yr achosion heb wrandawiad,

Interim orders proceedings: when a hearing is not necessary

30.—(1) Interim orders proceedings may be determined by an interim orders panel without a hearing if—

(a) the parties agree in writing that the proceedings may be determined without a hearing,

(b) os yw'r partïon yn cytuno'n ysgrifenedig i'r gorchymyn interim sydd i gael ei wneud gan y panel, neu (mewn achos pan fo'r panel yn ystyried yr adolygiad o orchymyn interim) i'r penderfyniad a bennir yn adran 147(1)(b) i (e) o'r Ddeddf sydd i gael ei wneud gan y panel, gan gynnwys—

(i) y cyfnod y mae'r gorchymyn interim i gael effaith ar ei gyfer, a

(ii) yn achos gorchymyn cofrestru amodol interim, yr amodau sydd i gael eu gosod ar gofrestriad y person cofrestredig â GCC,

(c) os gwneir datganiad ysgrifenedig o ffeithiau y cytunwyd arnynt gan—

(i) GCC,

(ii) y person cofrestredig, a

(iii) y panel, a

(d) os yw'r panel yn penderfynu nad oes angen cynnal gwrandawiad.

(2) Pan ddyfernir ar achosion yn unol â pharagraff (1) heb wrandawiad —

(a) caiff cadeirydd y panel wneud neu gadarnhau gorchymyn interim;

(b) ar unrhyw adeg yn ystod yr achosion caiff y panel neu gadeirydd y panel ei gwneud yn ofynnol i wrandawiad gael ei gynnal.

(3) Caiff GCC drwy reolau wneud darpariaeth ynghylch y camau y caiff y partïon neu banel gorchmynion interim eu cymryd neu y mae rhaid i'r partïon neu banel gorchmynion interim eu cymryd er mwyn galluogi'r panel i ddod i benderfyniad o ran a oes angen cynnal gwrandawiad gorchmynion interim.

Rheoli achos mewn achosion gorchmynion interim

31.—(1) Caiff GCC drwy reolau wneud darpariaeth ynghylch rheoli achos rhagarweiniol mewn perthynas ag achosion gorchmynion interim.

(2) Caiff y rheolau wneud darpariaeth yn benodol—

(a) mai panel gorchmynion interim neu berson a benodir o dan y rheolau sy'n gwneud y gwaith rheoli achos rhagarweiniol;

(b) ynghylch cymwysterau ar gyfer penodiad o'r fath;

(c) ynghylch adolygiadau achos;

(d) ynghylch cyfarwyddydau y caniateir iddynt gael eu rhoi;

(e) ynghylch cofnodion cyfarwyddydau,

(b) the parties agree in writing to the interim order which is to be made by the panel, or (in a case where the panel is considering the review of an interim order) to the decision specified in section 147(1)(b) to (e) of the Act which is to be made by the panel, including—

(i) the period for which the interim order is to have effect, and

(ii) in the case of an interim conditional registration order, the conditions to be imposed on the registered person's registration with SCW,

(c) a statement of agreed facts is made in writing by—

(i) SCW,

(ii) the registered person, and

(iii) the panel, and

(d) the panel decides that it is not necessary to hold a hearing.

(2) Where in accordance with paragraph (1) proceedings are to be determined without a hearing—

(a) an interim order may be made or confirmed by the chair of the panel;

(b) at any stage during the proceedings the panel or the chair of the panel may require a hearing to be held.

(3) SCW may by rules make provision about the steps which may or must be taken by the parties or an interim orders panel to enable the panel to reach a decision as to whether it is necessary to hold an interim orders hearing.

Case management in interim order proceedings

31.—(1) SCW may by rules make provision about preliminary case management in relation to interim orders proceedings.

(2) The rules may in particular make provision—

(a) for preliminary case management to be carried out by an interim orders panel or by a person appointed under the rules;

(b) about qualifications for such an appointment;

(c) about case reviews;

(d) about directions that may be given;

(e) about records of directions,

(f) ynghylch canlyniadau methu â chydymffurfio â chyfarwyddydau (a gaiff gynnwys pŵer panel gorchmynion interim i ddod i unrhyw gasgliad y mae'n ystyried ei fod yn briodol).

(3) Pan fo'r rheolau yn darparu i berson ac eithrio'r panel gorchmynion interim wneud y gwaith rheoli achos rhagarweiniol, rhaid iddynt ddarparu i'r person hwnnw—

(a) gweithredu'n annibynnol ar y partïon, a

(b) arfer unrhyw bŵer i roi cyfarwyddydau at ddiben sicrhau bod yr apêl yn cael ei chynnal yn gyfiawn, yn ddiymdroi ac yn effeithiol yn unig.

(4) Mae amcan cyffredinol panel gorchmynion interim o dan reoliad 28(1)(c) (i ymdrin ag achosion yn deg ac yn gyfiawn) hefyd yn gymwys i berson o'r fath.

(5) Ni chaiff rheolau a wneir o dan y rheoliad hwn ddarparu ar gyfer dyfarnu costau.

Tystiolaeth mewn achosion gorchmynion interim

32.—(1) Nid yw tystiolaeth yn dderbyniol mewn achosion gorchmynion interim oni bai—

(a) y byddai'n dderbyniol mewn achosion sifil yng Nghymru a Lloegr, neu

(b) bod y panel gorchmynion interim yn ystyried bod y dystiolaeth yn berthnasol, a'i bod yn deg derbyn y dystiolaeth honno.

(2) Mae tystysgrif sydd wedi ei llofnodi gan swyddog cymwys mewn llys o unrhyw awdurdodaeth bod person wedi ei euogfarnu o drosedd neu, yn yr Alban, euogfarn gryno, yn dystiolaeth bendant o'r drosedd.

(3) Mae tystysgrif bod person wedi ei gynnwys ar restr wahardd (at ddibenion adran 117(1)(c) o'r Ddeddf), a ddyroddir gan y person sy'n gyfrifol am gynnal y rhestr, yn dystiolaeth bendant o'r ffaith honno.

(4) Mae tystysgrif a ddyroddir gan gorff perthnasol (at ddibenion adran 117(1)(d) o'r Ddeddf) ei fod wedi dyfarnu bod amhariad ar addasrwydd person i ymarfer yn dystiolaeth bendant o'r dyfarniad hwnnw.

Eithrio'r cyhoedd o wrandawiadau gorchmynion interim

33.—(1) Rhaid eithrio'r cyhoedd o wrandawiad gorchmynion interim oni bai—

(a) bod y person cofrestredig yn gofyn i'r gwrandawiad gael ei gynnal yn gyhoeddus, a

(b) bod y panel gorchmynion interim yn ystyried na fyddai gwneud hynny yn groes i fudd y cyhoedd.

(f) about consequences of failure to comply with directions (which may include the power of an interim orders panel to draw such inference as it considers appropriate).

(3) Where the rules provide for preliminary case management to be carried out by a person other than the interim orders panel, they must provide for that person—

(a) to act independently of the parties, and

(b) to exercise any power to give directions only for the purpose of securing the just, expeditious and effective running of the appeal.

(4) The general objective of an interim orders panel under regulation 28(1)(c) (to deal fairly and justly with cases) also applies to such a person.

(5) Rules made under this regulation may not provide for the award of costs.

Evidence in interim orders proceedings

32.—(1) In interim orders proceedings evidence is not admissible unless—

(a) it would be admissible in civil proceedings in England and Wales, or

(b) the interim orders panel considers that the evidence is relevant, and that it is fair to admit it.

(2) A certificate signed by a competent officer of a court of any jurisdiction that a person has been convicted of a criminal offence, or in Scotland, an extract conviction, is conclusive evidence of the offence.

(3) A certificate that a person is included in a barred list (for the purposes of section 117(1)(c) of the Act), issued by the person responsible for maintaining the list, is conclusive evidence of that fact.

(4) A certificate issued by a relevant body (for the purposes of section 117(1)(d) of the Act) that it has determined that a person's fitness to practise is impaired is conclusive evidence of that determination.

Exclusion of the public from interim orders hearings

33.—(1) The public must be excluded from an interim orders hearing unless—

(a) the registered person requests that the hearing should be held in public, and

(b) the interim orders panel considers that doing so would not be against the public interest.

(2) Pan gynhelir gwrandawiad yn gyhoeddus, caiff y panel gorchmynion interim eithrio person o'r gwrandawiad os yw'n meddwl bod ymddygiad y person yn debygol o darfu ar y gwrandawiad.

Achosion gorchmynion interim: gwysion tystion

34.—(1) At ddibenion achosion gorchmynion interim—

(a) caiff panel gorchmynion interim weinyddu llwon,

(b) caiff GCC ohono ei hun ddyroddi gwŷs tyst sy'n ei gwneud yn ofynnol i berson fod yn bresennol mewn gwrandawiad i ddarparu gwybodaeth neu i gyflwyno unrhyw ddogfen, a chaiff unrhyw barti arall ofyn i GCC ddyroddi gwŷs o'r fath.

(2) Nid yw unrhyw berson i gael ei orfodi gan wŷs a ddyroddir o dan baragraff (1)(b) i gyflwyno unrhyw ddogfen na allai'r person hwnnw gael ei orfodi i'w chyflwyno mewn achos sifil yng Nghymru a Lloegr.

Mesurau arbennig ar gyfer tystion etc. mewn gwrandawiadau gorchmynion interim

35.—(1) Mae hawlogaeth gan berson sy'n rhoi tystiolaeth mewn gwrandawiad gorchmynion interim, gan gynnwys y person cofrestredig, i gael mesurau arbennig—

(a) os yw'r person o dan 18 oed, neu

(b) os yw'r panel gorchmynion interim yn ystyried bod y dystiolaeth a roddir gan y person yn debygol o fod o ansawdd llai oherwydd—

(i) anabledd corfforol, anabledd dysgu, problemau iechyd meddwl, salwch neu gyflwr iechyd neu ddibyniaeth ar gyffuriau neu ar alcohol, neu

(ii) ofn neu drallod mewn cysylltiad â rhoi tystiolaeth.

(2) Mae gan berson sy'n rhoi tystiolaeth mewn gwrandawiad gorchmynion interim hawlogaeth i gael mesurau arbennig os yw'r mater y mae'r achos yn ymwneud ag ef o natur rywiol a bod y person yn ddioddefwr honedig.

(3) Wrth benderfynu a yw tystiolaeth a roddir gan berson yn debygol o fod o ansawdd llai oherwydd mater a bennir ym mharagraff (1)(b), rhaid i'r panel gorchmynion interim ystyried safbwyntiau'r person o dan sylw.

(4) Caiff panel gorchmynion interim gynnig mesurau arbennig i berson nad oes hawlogaeth ganddo i'w cael o dan baragraff (1) neu (2), os yw'n meddwl bod gwneud hynny er budd y cyhoedd.

(2) In the case of a hearing held in public, the interim orders panel may exclude a person from the hearing if it thinks that the person's conduct is likely to disrupt the hearing.

Interim orders proceedings: witness summons

34.—(1) For the purposes of interim orders proceedings—

(a) an interim orders panel may administer oaths,

(b) SCW may of its own motion issue a witness summons requiring a person to attend a hearing to supply information or to produce any document, and any other party may request SCW to issue such a summons.

(2) No person is to be compelled by a summons issued under paragraph (1)(b) to produce any document which that person could not be compelled to produce in civil proceedings in England and Wales.

Special measures for witnesses etc. in interim orders hearings

35.—(1) A person giving evidence in an interim orders hearing, including the registered person, is entitled to special measures if—

(a) the person is under 18, or

(b) the interim orders panel considers that the quality of evidence given by the person is likely to be diminished by reason of—

(i) physical disability, learning disability, mental health problems, an illness or health condition or a dependency on drugs or alcohol, or

(ii) fear or distress in connection with giving evidence.

(2) A person giving evidence in an interim orders hearing is also entitled to special measures if the matter to which the proceedings relate is of a sexual nature and the person is an alleged victim.

(3) In deciding whether the quality of evidence given by a person is likely to be diminished by reason of a matter specified in paragraph (1)(b), the interim orders panel must take into account the views of the person concerned.

(4) An interim orders panel may offer special measures to a person not entitled to them under paragraph (1) or (2), if it thinks that this is in the public interest.

(5) Ystyr "mesurau arbennig" ("*special measures*") yw unrhyw fesurau arbennig y mae'r panel gorchmynion interim yn ystyried eu bod yn briodol at ddiben gwella ansawdd y dystiolaeth a roddir gan berson yn y gwrandawiad.

(5) "Special measures" ("*mesurau arbennig*") means such special measures as the interim orders panel considers appropriate for the purpose of improving the quality of evidence given by a person at the hearing.

(6) Wrth ystyried pa fesurau arbennig yn benodol a all fod yn briodol, rhaid i'r panel gorchmynion interim ystyried safbwyntiau'r person o dan sylw.

(6) In considering which particular special measures may be appropriate, the interim orders panel must take into account the views of the person concerned.

(7) Caiff person sy'n 18 oed neu'n hŷn ac sydd â'r galluedd i wneud hynny wrthod derbyn mesurau arbennig neu unrhyw fesur arbennig penodol.

(7) A person who is 18 or over and who has the capacity to do so may decline to accept special measures or any particular special measure.

(8) Dyfernir a oes gan berson alluedd at ddibenion paragraff (7) yn unol â Deddf Galluedd Meddyliol 2005.

(8) Whether a person has capacity for the purposes of paragraph (7) is determined in accordance with the Mental Capacity Act 2005.

(9) Dim ond os yw'r panel gorchmynion interim wedi ei fodloni nad yw tystiolaeth y plentyn yn debygol o fod o ansawdd llai oherwydd absenoldeb y mesur neu'r mesurau arbennig y mae'r plentyn yn dymuno eu gwrthod y caiff person sydd o dan 18 oed ("plentyn") ("*child*") wrthod derbyn mesurau arbennig neu unrhyw fesur arbennig penodol.

(9) A person who is under 18 (a "child") ("*plentyn*") may decline to accept special measures or any particular special measure only if the interim orders panel is satisfied that the quality of the child's evidence is not likely to be diminished by the absence of the special measure or measures which the child wishes to decline.

(10) Wrth gyrraedd safbwynt fel sy'n ofynnol gan baragraff (9), rhaid i'r panel gorchmynion interim ystyried—

(10) In reaching a view as required by paragraph (9), the interim orders panel must consider—

(a) oedran ac aeddfedrwydd y plentyn,

(a) the child's age and maturity,

(b) gallu'r plentyn i ddeall canlyniadau rhoi tystiolaeth heb y mesur neu'r mesurau arbennig,

(b) the child's ability to understand the consequences of giving evidence without the special measure or measures,

(c) lles pennaf y plentyn,

(c) the child's best interests,

(d) safbwyntiau rhieni'r plentyn neu unrhyw berson a chanddo gyfrifoldeb rhiant dros y plentyn,

(d) the views of the child's parents or any person with parental responsibility for the child,

(e) y berthynas (os oes perthynas) rhwng y plentyn ac unrhyw barti yn yr achos,

(e) the relationship (if any) between the child and any party to the proceedings,

(f) natur ac amgylchiadau honedig y mater y mae'r achos yn ymwneud ag ef, ac

(f) the nature and alleged circumstances of the matter to which the proceedings relate, and

(g) unrhyw ffactor arall y mae'r panel yn meddwl ei fod yn berthnasol.

(g) any other factor that the panel thinks is relevant.

(11) Rhaid i banel gorchmynion interim roi cyfarwyddyd sy'n ei gwneud yn ofynnol i unrhyw fesur arbennig y mae wedi ei gynnig gael ei weithredu neu ei ddarparu, ac eithrio pan fo gan y person o dan sylw hawlogaeth i wrthod y mesur arbennig a'i fod wedi gwneud hynny.

(11) An interim orders panel must give a direction requiring the implementation or provision of any special measure which it has offered, except where the person concerned is entitled to decline the special measure and has done so.

(12) Os yw'r mater y mae'r achos yn ymwneud ag ef o natur rywiol, ni chaiff y person cofrestredig groesholi dioddefwr honedig yn bersonol, oni bai—

(12) If the matter to which the proceedings relate is of a sexual nature, the registered person may not personally cross-examine an alleged victim, unless—

(a) bod y dioddefwr honedig wedi cydsynio i hyn, a

(a) the alleged victim has consented to this, and

(b) nad yw'r panel gorchmynion interim yn ystyried bod ffeithiau honedig y mater yn gyfystyr â, neu'n debygol o fod yn gyfystyr â, throsedd rywiol o dan adran 62 o Ddeddf Cyfiawnder Ieuenctid a Thystiolaeth Droseddol 1999.

(13) Os yw paragraff (12) yn golygu nad oes caniatâd gan y person cofrestredig i groesholi person yn bersonol, rhaid i'r panel gorchmynion interim roi cyfle digonol i'r person cofrestredig i benodi cynrychiolydd i wneud hynny.

(14) Os nad yw'r person cofrestredig yn penodi cynrychiolydd o dan baragraff (13), ond ei fod yn dymuno bod dioddefwr honedig yn cael ei groesholi, rhaid i GCC benodi cynrychiolydd i groesholi'r person ar ran y person cofrestredig.

Gwrandawiadau gorchmynion interim: y weithdrefn

36.—(1) Mae hawlogaeth gan berson cofrestredig i gael ei gynrychioli mewn gwrandawiad gorchmynion interim gan—

(a) cyfreithiwr neu gwnsler,

(b) cynrychiolydd o unrhyw sefydliad proffesiynol, neu

(c) os yw'r panel gorchmynion interim yn cytuno, unrhyw berson arall.

(2) Mae hawlogaeth gan y partïon i roi tystiolaeth.

(3) Ni chaiff person sy'n cynrychioli neu'n cynghori'r person cofrestredig roi tystiolaeth.

(4) Caniateir bwrw ymlaen â gwrandawiad gorchmynion interim hyd yn oed os nad yw'r person cofrestredig yn bresennol ac os nad yw wedi ei gynrychioli, os yw'r panel gorchmynion interim wedi ei fodloni bod pob ymdrech resymol wedi ei gwneud i roi hysbysiad o'r gwrandawiad i'r person.

Rheolau gwrandawiadau gorchmynion interim

37.—(1) Rhaid i GCC wneud rheolau ynghylch y weithdrefn sydd i gael ei dilyn mewn gwrandawiadau gorchmynion interim ("rheolau gwrandawiadau gorchmynion interim") ("*interim orders hearings rules*").

(2) O ran Gweinidogion Cymru—

(a) cânt roi canllawiau (gan gynnwys canllawiau ar ffurf rheolau enghreifftiol) i GCC ynghylch cynnwys rheolau gwrandawiadau gorchmynion interim, a

(b) rhaid iddynt gyhoeddi unrhyw ganllawiau a roddir o dan is-baragraff (a).

(b) the interim orders panel does not consider that the alleged facts of the matter amount to, or are likely to amount to, a sexual offence under section 62 of the Youth Justice and Criminal Evidence Act 1999.

(13) If paragraph (12) means that the registered person is not permitted personally to cross-examine a person, the interim orders panel must give the registered person adequate opportunity to appoint a representative to do so.

(14) If the registered person does not appoint a representative under paragraph (13), but wishes an alleged victim to be cross-examined, SCW must appoint a representative to cross-examine the person on behalf of the registered person.

Interim orders hearings: procedure

36.—(1) A registered person is entitled to be represented in an interim orders hearing by—

(a) a solicitor or counsel,

(b) a representative from any professional organisation, or

(c) if the interim orders panel agrees, any other person.

(2) The parties are entitled to give evidence.

(3) A person representing or advising the registered person may not give evidence.

(4) An interim orders hearing may proceed even if the registered person is not present and not represented, if the interim orders panel is satisfied that all reasonable efforts have been made to give notice of the hearing to the person.

Interim orders hearings rules

37.—(1) SCW must make rules about the procedure to be followed in interim orders hearings ("interim orders hearings rules") ("*rheolau gwrandawiadau gorchmynion interim*").

(2) The Welsh Ministers—

(a) may give guidance (including guidance in the form of model rules) to SCW about the contents of interim orders hearings rules, and

(b) must publish any guidance given under sub-paragraph (a).

(3) Rhaid i GCC, wrth wneud rheolau gwrandawiadau gorchmynion interim, roi sylw i unrhyw ganllawiau a roddir gan Weinidogion Cymru o dan baragraff (2)(a).

(4) Pan fo canllawiau wedi eu rhoi ar ffurf rheolau enghreifftiol rhaid i GCC, ar ôl gwneud unrhyw reolau gwrandawiadau gorchmynion interim, gyhoeddi dogfen sy'n esbonio unrhyw wyriadau sylweddol oddi ar y rheolau enghreifftiol neu unrhyw ychwanegiadau atynt.

(5) Mae pŵer GCC i wneud rheolau gwrandawiadau gorchmynion interim yn ddarostyngedig i'r ddarpariaeth a wneir gan y Rheoliadau hyn.

(3) SCW must, when making interim orders hearings rules, have regard to any guidance given by the Welsh Ministers under paragraph (2)(a).

(4) Where guidance has been given in the form of model rules SCW must, after making any interim orders hearings rules, publish a document explaining any significant departures from or additions to the model rules.

(5) The power of SCW to make interim orders hearings rules is subject to the provision made by these Regulations.

Rebecca Evans

Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol, o dan awdurdod Ysgrifennydd y Cabinet dros Iechyd, Llesiant a Chwaraeon, un o Weinidogion Cymru
15 Tachwedd 2016

Minister for Social Services and Public Health, under authority of the Cabinet Secretary for Health, Well-being and Sport, one of the Welsh Ministers
15 November 2016

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