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Social Work England

Rules

The Social Work England (Investigators, Case Examiners, Adjudicators and Inspectors)
Rules 2018

Coming into force in accordance with rule 1

PART 1
Introductory Text

Citation and commencement

1. (1) Social Work England has made these rules in accordance with regulation 3 of The Social Workers Regulations 2018.
- (2) These rules are made in exercise of powers conferred by regulation 21(3)(a) and (b) and regulation 25(5)(c) of The Social Workers Regulations 2018.
- (3) These rules are to be cited as The Social Work England (Investigators, Case Examiners, Adjudicators and Inspectors) Rules 2018.
- (4) These rules come into force on [date TBC].

Interpretation

2. In these rules:

'adjudicator' means a person appointed under regulation 25(7)(c).

'case examiner' means a person appointed under regulation 25(7)(b).

'inspector' has the meaning given in regulation 21 (2).

'investigator' means a person appointed under regulation 25(7)(a).

'Nolan Principles' for public life mean the standards set out by Lord Nolan in 1995

'regulations' means The Social Workers Regulations 2018.

'regulation' means a regulation in The Social Workers Regulations 2018.

'schedule' means a schedule of The Social Workers Regulations 2018.

'scheme' means the education and training approval scheme defined in regulation 20.

PART 2

Investigators, case examiners and adjudicators

3. Investigators, case examiners and adjudicators must be appointed by Social Work England under regulation 25(7) for the purposes of fitness to practise proceedings.

Requirements of investigators

4. (1) The requirements of an investigator shall be to carry out the functions assigned to that role in Schedule 2 and regulation 25(6) of the regulations and shall include:

- (a) Planning investigations, including case management and risk assessment of fitness to practise investigations.
- (b) Obtaining all relevant information required for effective investigation into whether a registered social worker's fitness to practise is impaired.
- (c) Assessing the information.
- (d) Presenting reports detailing recommendations for case closure or referral for further action.

To what extent do you agree with the minimum criteria for investigators in rule 4(2)?

(2) A person shall only be appointed as an investigator if they can, as a minimum, demonstrate relevant experience in one or more of the following:

- (a) Maintaining accurate records, case information and other records.
- (b) Using analytical skills, exploring investigative options.
- (c) Multi-agency working, sharing sensitive information and maintaining confidentiality with external stakeholders.

(3) This list shall not preclude Social Work England from setting and publishing further criteria which a person must satisfy to be appointed as an investigator.

Requirements of case examiners

5. (1) The requirements of a case examiner shall be to carry out the functions assigned to that role in Schedule 2 and regulation 25(6) and to carry out Social Work England's functions under regulation 26 of the regulations and shall include:

- (a) Determining appropriate next steps in cases referred by investigators.
- (b) Identifying and evaluating any additional evidence required to make determinations about whether there is realistic prospect that adjudicators will determine that fitness to practise is impaired and whether it is in the public interest for the case to proceed to a fitness to practice hearing.
- (c) Making substantive determinations:

(i) If there is no realistic prospect that adjudicators would determine that the social worker's fitness to practise is impaired, deciding the appropriate outcome for the case.

(ii) If there is a realistic prospect that adjudicators would determine that the social worker's fitness to practise is impaired, providing all necessary information for adjudicators to consider.

To what extent do you agree with the minimum criteria for case examiners in rule 5(2)?

(2) A person shall only be appointed as a case examiner if they can, as a minimum, demonstrate relevant experience in one or more of the following:

(a) Making sound, impartial and reasoned decisions whilst remaining objective when dealing with sensitive and emotional issues.

(b) Communicating in an effective, accurate, concise and factual manner.

(c) Applying professional expertise and knowledge in different settings.

(3) This list shall not preclude Social Work England from setting and publishing further criteria which a person must satisfy to be appointed as a case examiner.

Requirements of adjudicators

6. (1) The requirements of an adjudicator in fitness to practise proceedings shall be to carry out the functions assigned to that role in Schedule 2 and regulation 25(6) and to carry out Social Work England's functions under regulation 26, and shall include:

(a) Determining whether a social worker's fitness to practise is, or continues to be, impaired.

(b) Deciding as appropriate if regulatory action is required and if so, issuing appropriate sanctions and outcomes.

To what extent do you agree with the minimum criteria for adjudicators in rule 6(2)?

(2) A person shall only be appointed as an adjudicator if they can, as a minimum, demonstrate relevant experience in one or more of the following:

- (a) A demonstrated commitment to the 'Nolan Principles' for public life.
- (b) Being involved with objective decision-making by exercising sound, reasoned judgement, together with the ability to remain independent and objective at all times.
- (c) Providing written responses, explaining and justifying decisions in language appropriate to a broad range of interested parties.

(3) This list shall not preclude Social Work England from setting and publishing further criteria which a person must satisfy to be appointed as an adjudicator.

Conflicts of interest

7. Any person who is to be, or has been, appointed as an investigator, case examiner or adjudicator must declare to Social Work England any conflict of interest, whether actual or perceived, in relation to the individual subject of proceedings or in relation to the complainant.

Restrictions

To what extent do you agree with the categories of person who may not act as investigators, case examiners or adjudicators in rule 8?

8. The following categories of person may not act as investigators, case examiners or adjudicators.

- (1) A person to whom regulation 25(8) applies.
- (2) A person who is subject to a fitness to practise sanction or ongoing fitness to practise inquiry, under the regime of any regulator.
- (3) A person with a conflict of interest established by rule 7.
- (4) A person who is known to have a current or previous personal or professional relationship with an individual who is subject to fitness to practise proceedings, under the regime of any regulator.
- (5) A person who is known to have a current or previous personal or professional relationship with the individual who has brought the complaint.

(6) A person whose suitability to the role is for any other reason in doubt, such as any conflict of interest not covered by (3), a failure to declare any conflict of interest, or a previous criminal conviction or ongoing criminal investigation.

PART 3

Inspectors

The role of an inspector

9. (1) Inspectors may be appointed by Social Work England to carry out the function specified in regulation 21(1) of the regulations.

(2) The role of an inspector shall be to perform functions in support of the education and training approval scheme, to include:

- (a) Visiting institutions that deliver or seek to deliver courses subject to the scheme.
- (b) Meeting with staff delivering and students enrolled on courses
- (c) Reviewing course documentation and final assessment criteria, including examination.
- (d) Attending final examinations and assessments to assess their rigour and scope.
- (e) Preparing reports for each inspection and submitting these to the Registrar, along with any supporting documentation, with recommendations in relation to the awarding or maintaining of approval under the scheme.

Knowledge, skills or experience necessary to undertake the role of inspector

To what extent do you agree with the minimum criteria for inspectors in rule 10?

10. A person shall only be appointed as an inspector if they can, as a minimum, demonstrate relevant experience in one or more of the following:

- (1) Working in quality assurance, education or healthcare regulation or equivalent.
- (2) Using analytical information and evidence gathering and synthesis to inform decisions against a risk-based methodology.
- (3) Making sound, impartial and reasoned decisions, together with the ability to remain independent and objective at all times.

Conflicts of interest

11. Any person who is to be, or has been, appointed as an inspector must declare to Social Work England any conflict of interest in relation to any relevant institution that will be, or has been, subject to inspection.

Persons who may not act as an inspector

To what extent do you agree with the categories of person or circumstances that should preclude people from acting as inspectors in rule 12?

12. A person may not carry out the role of inspector if:

- (1) They have a conflict of interest as established by rule 11, whether declared or undeclared, and Social Work England considers the conflict sufficient to make performing the role of inspector inappropriate or undesirable.
- (2) They are subject to a fitness to practise sanction or ongoing fitness to practise inquiry, under the regime of any regulator.
- (3) There is any other reason to doubt their suitability to the role, such as failure to declare a conflict of interest, or a previous criminal conviction or ongoing criminal investigation.

EXPLANATORY NOTE

(This note is not part of the rules)

These rules are made pursuant to regulation 21(3)(a) and (b) and regulation 25(5)(c) of The Social Workers Regulations 2018.

Rule 3 sets out that case examiners, investigators and adjudicators must be appointed for fitness to practise proceedings.

Rule 4 to 6 set out the requirements for performing each of the roles of case examiner, investigator and adjudicator.

Rules 7 defines a conflict of interest for case examiners, investigators and adjudicators.

Rule 8 sets out persons who cannot be appointed as case examiners, investigators and adjudicators.

Rule 9 sets out the role of an inspector and the tasks they are required to carry out.

Rule 10 sets out the minimum experience that a person must have in order to be appointed as an inspector.

Rule 11 requires inspectors, or those to be appointed as inspectors, to declare any conflict of interest.

Rule 12 sets out when a person cannot be appointed as an inspector.