



## SAFEGUARDING BOARD (QUALIFICATIONS AND PROCEDURES) (NO. 2) REGULATIONS 2019

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Statutory Document No. 2019/0151



*Safeguarding Act 2018*

## **SAFEGUARDING BOARD (QUALIFICATIONS AND PROCEDURES) (NO. 2) REGULATIONS 2019<sup>1</sup>**

*Approved by Tynwald:*

*March 2019*

*Coming into operation in accordance with regulation 2*

The Cabinet Office makes the following Regulations under sections 3, 9(4) and 18 of the Safeguarding Act 2018<sup>1</sup>.

### **1 Title**

These Regulations are the Safeguarding Board (Qualifications and Procedures) (No. 2) Regulations 2019.

### **2 Commencement**

If approved by Tynwald, these Regulations come into operation immediately after approval.<sup>2</sup>

### **3 Interpretation**

- (1) In these Regulations “**the Act**” means the Safeguarding Act 2018 and a reference (without more) to a numbered section is a reference to the section of the Act bearing that number.
- (2) In these Regulations —
  - (a) “**the Board**” means the Safeguarding Board established under section 6;
  - (b) “**the Business Manager**” means the Business Manager to the Board;
  - (c) “**the Deputy Chair**” means the Deputy Chair of the Board appointed under regulation 4; and
  - (d) a reference to a numbered section is a reference to the section of the Act which is so numbered.

<sup>1</sup> AT 7 of 2018: section 3 is cited because of the meanings which it ascribes to “prescribed” and “regulations”.

<sup>2</sup> Tynwald approval is required by virtue of section 19(2) of the Act.

## **PART 2 — THE BOARD**

### **DIVISION 1 — COMPOSITION AND PROCEDURE OF THE BOARD**

#### **4 Deputy Chair of the Board**

- (1) At its first meeting, the Board must elect one of its members to serve as the Deputy Chair.
- (2) If present, the Deputy Chair is to take the chair —
  - (a) at any meeting of the Board at which the Chair is not present, or
  - (b) for any item on the agenda in respect of which the Chair has a conflict of interest.
- (3) Paragraph (1) also applies to the first meeting following the occurrence of a vacancy arising in the office of the Deputy Chair.

#### **5 Meetings of the Board**

- (1) The Board is to hold meetings for the transaction of business at least once a quarter and at such other times as may be necessary for the proper exercise of its functions.
- (2) The agenda for a meeting convened under paragraph (1) is to be sent to members and those in attendance (see regulation 6) at least seven days in advance of the meeting.
- (3) Meetings of the Board are to be held at any time, —
  - (a) at the request of the Chair; or
  - (b) at the written request of a member of the Board addressed to the Business Manager in respect of specific or exceptional circumstances requiring attention outside the course of ordinary Board business, subject to paragraphs (4) to (6).
- (4) On receipt of a request under paragraph (3)(b), the Business Manager is to refer the request to the Chair to determine whether the condition in that subparagraph is satisfied.
- (5) If the Chair is satisfied as mentioned in paragraph (4), the Business Manager is to summon a meeting of the Board on not less than 28 days' notice: the notice must specify the circumstances leading to the summoning of the meeting.
- (6) At a meeting summoned under paragraph (5) only the circumstances specified in the notice, and the background to them, may be discussed.
- (7) No business may be transacted at a meeting unless at least half the members of the Board are present.

## **6 Persons who may attend meetings of the Board**

- (1) If a person who is a member of the Board by virtue of section 6(6) is unable to attend a meeting of the Board, that person may, with the consent of the Chair, appoint an alternate member to attend in his or her stead.
- (2) Where an alternate member attends the Board, he or she shall have the same rights and obligations as the person in whose stead he or she attends.
- (3) In addition to a person attending by virtue of paragraph (1) the following are entitled to attend and speak (but not vote) at a meeting of the Board, —
  - (a) a registered medical practitioner designated by the Department of Health and Social Care; and
  - (b) a registered nurse so designated.

## **7 Record of proceedings**

- (1) The Business Manager is to maintain a record of the proceedings of a meeting of the Board.
- (2) The record under paragraph (1) is to be signed, either at the meeting to which it relates or at the following meeting by the person presiding.
- (3) Any record under paragraph (1) which purports to be signed in accordance with paragraph (2) is to be received in evidence without further proof.
- (4) Until the contrary is proved, if a record of any meeting of the Board, has been made under paragraph (1) and signed in accordance with paragraph (2)—
  - (a) the meeting is deemed to have been duly convened and held, and
  - (b) the members present are to be deemed to have been duly qualified to attend.
- (5) A document which, —
  - (a) purports to be a copy of a resolution passed by the Board or of a record of the proceedings of a meeting of the Board; and
  - (b) bears a certificate —
    - (i) purporting to be signed by a person holding the office of Business Manager to the Board, or a person authorised to sign it by the Business Manager or the Board, and
    - (b) stating that the resolution was passed on a date specified in the certificate or, as the case may be, that the record was signed in accordance with paragraph (2),

is evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution or record in question.
- (6) The record maintained under paragraph (1) must include, —

- (a) the name of every member present at a meeting of the Board;
  - (b) the name of any person present at a meeting by virtue of regulation 6(1) (alternates); and
  - (c) the name of any person in attendance at a meeting by virtue of regulation 6(3) (designated medical practitioner and designated nurse).
- (7) The record maintained under paragraph (1) must also include details of any decision or resolution made by the Board, subject to paragraph (8).
- (8) The Chair may direct that the record shall be redacted (to such extent as the Chair thinks appropriate) –
  - (a) to prevent the identification of any child or vulnerable adult to whom the record relates;
  - (b) to prevent the disclosure of any personal data which falls within the special categories for the purposes of the GDPR and LED Implementing Regulations 2018 (whether relating to a child, a vulnerable adult or another);
  - (c) to secure patient confidentiality; or
  - (d) to prevent prejudice to the conduct of any criminal or disciplinary proceedings.
- (9) The record maintained under paragraph (1) is to be published in such manner as the Board directs, subject to paragraph (10).
- (10) Whether or not the Chair gives a direction under paragraph (8), the Chair may direct that the published version of a record under paragraph (9) is to be redacted for any of the purposes mentioned in paragraph (8) to such extent as the Chair thinks fit.

## **8 Regulation of the Board's proceedings**

The Board may (subject to the provisions of regulations 5 to 7) make standing orders about meetings and with respect to the transaction and management of its business.

### **DIVISION 2 — MEMBERSHIP OF BOARD OR PANEL: DISQUALIFICATION**

## **9 Disqualifications for membership of the Board and associated bodies**

- (1) A person is disqualified for appointment under section 6(3) as an independent member of the Board if any of paragraphs (3) to (10) applies to that person.
- (2) A person is disqualified for appointment as a member of a committee or subcommittee of the Board if any of paragraphs (4) to (10) applies to that person.

- (3) This paragraph applies to a person who has, at any time within two years immediately preceding the date on which the appointment would commence, been employed by, or held an office with, —
- (a) the Department of Education, Sport and Culture;
  - (b) the Department of Health and Social Care;
  - (ba) Manx Care;<sup>2</sup>
  - (c) the Department of Home Affairs;
  - (d) the former Departments of —
    - (i) Education<sup>3</sup>,
    - (ii) Education and Children;
    - (iii) Health<sup>4</sup>,
    - (iv) Health and Social Security<sup>5</sup>;
    - (v) Social Care<sup>6</sup>;
  - (e) the Isle of Man Constabulary; or
  - (f) the Health Services Consultative Committee originally established under the National Health Service Act 2001 and which continues to exist by virtue of section 25(1) of the National Health and Care Service Act 2016.<sup>3</sup>
- (4) This paragraph applies to a person who has, within five years immediately preceding the date on which the appointment would commence, been convicted, whether in the Island or elsewhere, of any offence and has been sentenced to custody or imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.
- (5) This paragraph applies to a person who has been dismissed, other than by reason of redundancy, from employment with a Department or Statutory Board or any of the persons represented on the Safeguarding Board by virtue of section 4(e).
- (6) This paragraph applies to a person who is the subject of, —
- (a) a debt relief restrictions order under —
    - (i) Schedule 4ZB to the Insolvency Act 1986 (of Parliament)<sup>7</sup>; or
    - (ii) Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989<sup>8</sup>; or

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<sup>3</sup> Renamed the Department of Education and Children by article 4(3) of SD 2010/155.

<sup>4</sup> Established by article 4(1) of SD 2010/155 and dissolved by article 5 of SD 2014/008.

<sup>5</sup> Dissolved by article 4(2) of SD 2010/155.

<sup>6</sup> Established by article 4(1) of SD 2010/155 and dissolved by article 5 of SD 2014/008.

<sup>7</sup> 1986 c. 45.

<sup>8</sup> SI 1989/2405 (NI 9).

- (b) a bankruptcy restrictions order under section 155 of the Bankruptcy (Scotland) Act 2016<sup>9</sup>.
- (7) This paragraph applies to a person who is subject to —
  - (a) a disqualification under —
    - (i) the Company Officers (Disqualification) Act 2009;
    - (ii) the Company Directors Disqualification Act 1986 (of Parliament)<sup>10</sup>;
    - (iii) the Company Directors Disqualification (Northern Ireland) Order 2002<sup>11</sup>; or
  - (b) an order under section 429(2)(b) of the Insolvency Act 1986 (of Parliament) which provides for the application of that section and section 12 of the Company Directors Disqualification Act 1986 (of Parliament).
- (8) This paragraph applies to a person who —
  - (a) is an undischarged bankrupt by virtue of an order made by a court of competent jurisdiction in any part of the British Islands; or
  - (b) is subject to an order made under section 429(2)(b) of the Insolvency Act 1986 (of Parliament).
- (9) This paragraph applies to a person who has been removed, —
  - (a) from office as a charity trustee or a trustee for a charity by order of the High Court;
  - (b) from the office of trustee or charity trustee by order of the High Court of England and Wales or, by order of the Charity Commission for England and Wales under section 69 of the Charities Act 2011 (of Parliament)<sup>12</sup>;
  - (c) from being concerned in the management or control of a charity under section 34 of the Charities and Trustee Investment (Scotland) Act 2005<sup>13</sup>; or
  - (d) from the office of charity trustee or trustee for a charity by order of the High Court of Northern Ireland or by order of the Charity Commission for Northern Ireland under section 33 of the Charities Act (Northern Ireland) 2008<sup>14</sup> on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or which that person by his or her conduct contributed to or facilitated.

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<sup>9</sup> 2016 asp 21.

<sup>10</sup> 1986 c. 46.

<sup>11</sup> SI 2002/3150 (N.I. 4).

<sup>12</sup> 2011 c. 25.

<sup>13</sup> 2005 asp 10.

<sup>14</sup> 2008 c. 12 (N.I.)



- (10) This paragraph applies to a person, —
- (a) who has been removed from office with any of the persons or bodies represented on the Safeguarding Board by virtue of section 4;
  - (b) whose application for registration under, —
    - (i) Part 3 of the Regulation of Care Act 2013,
    - (ii) Part 4 of the Care Standards Act 2000 (of Parliament)<sup>15</sup>,
    - (iii) Part 3 of the Regulation of Care (Scotland) Act 2001<sup>16</sup> or Chapter 3 of Part 5 of the Public Service Reform (Scotland) Act 2010<sup>17</sup>, or
    - (iv) Part 1 of the Health and Personal Social Services Act (Northern Ireland) 2001<sup>18</sup>;has been refused or whose registration has been suspended and the suspension has not been terminated; or whose name has been removed from the register under the relevant enactment and not restored;
  - (c) whose registration as a health care professional has been withdrawn or suspended; or
  - (d) who has been barred from regulated activity relating to children or vulnerable adults in accordance with —
    - (i) section 7 of the Safeguarding Vulnerable Groups Act 2006 (of Parliament)<sup>19</sup>, or
    - (ii) Article 7 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007<sup>20</sup>.
- (11) For the purposes of paragraph (4)—
- (a) the date of conviction is to be assumed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted; and
  - (b) there is to be disregarded any conviction by or before a court outside the British Islands for an offence in respect of conduct which, had it taken place in the Island, would not have constituted an offence under the law in force in the Island.

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<sup>15</sup> 2000 c.14.

<sup>16</sup> 2001 asp 8.

<sup>17</sup> 2010 asp 8.

<sup>18</sup> 2001 c.3 (N.I.).

<sup>19</sup> 2006 c. 47.

<sup>20</sup> S.I. 2007/1351.

- (12) For the purposes of paragraph (5) “dismissed” excludes dismissal which was established to have been unfair in proceedings —
- (a) in the Island, before the Employment and Equality Tribunal or, before 1 January 2019, before the Employment Tribunal; or
  - (b) in Great Britain, before an employment tribunal under the Employment Tribunals Act 1996<sup>21</sup>; or
  - (c) in Northern Ireland, before an industrial tribunal established under the Industrial Tribunals (Northern Ireland) Order 1996<sup>22</sup>.

## PART 3: PROCEDURE OF PANELS

### DIVISION 1: ACTION AND IMPLEMENTATION PANEL

#### 10 Membership and functions of the Action and Implementation Panel

- (1) The Action and Implementation Panel is to comprise —
- (a) the Chair or the Deputy Chair;
  - (b) one member from each of the bodies specified in paragraphs (a) to (d) of section 4;
  - (c) the designated nurse;
  - (d) the designated doctor;
  - (e) a person who is not an officer or servant of any of the bodies specified in paragraphs (a) to (d) of section 4; and
  - (f) such other persons as the Chair may determine.
- (2) The Action and Implementation Panel has the following functions, —
- (a) to support and co-ordinate the business of the Board;
  - (b) to manage the implementation of the Board’s decisions;
  - (c) to oversee and co-ordinate the work of the other committees and sub-committees of the Board; and
  - (d) to delegate work to the committees and sub-committees mentioned in sub-paragraph (c).

#### 11 Meetings and proceedings of the Action and Implementation Panel

- (1) The first meeting of the Action and Implementation Panel is to be held on such date and at such time and place as may be determined by the Chair: the Business Manager is to summon those who are to attend the meeting.
- (2) The Panel is to meet at least four times a year.

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<sup>21</sup> 1996 c. 17

<sup>22</sup> S.I. 1996/1921.

- (3) At a meeting of the Panel, the Chair, or in the absence of the Chair, the Deputy Chair is to preside.
- (4) Before each meeting of the Panel a notice of the meeting which specifies the business to be transacted and is signed by the Chair or a person authorised to sign on behalf of the Chair must be sent to each member of the Panel so as to be available to the member at least seven days before the meeting.

The proceedings of any meeting are not invalidated by reason of a failure to give notice of it to a member.

- (5) In the case of an equality of votes on any resolution or decision of the Panel, the person presiding shall have a second and casting vote.
- (6) The Business Manager is to maintain a record of the proceedings of a meeting of the Panel.
- (7) The record under paragraph (6) is to be signed, either at the meeting to which it relates or at the following meeting by the person presiding.
- (8) Any record under paragraph (6) which purports to be signed in accordance with paragraph (7) is to be received in evidence without further proof.
- (9) Until the contrary is proved, if a record of any meeting of the Panel has been made and signed in accordance with paragraphs (6) and (7)—
  - (a) the Panel is deemed to have been duly constituted and to have had power to deal with the matters referred to in the record,
  - (b) the meeting is deemed to have been duly convened and held, and
  - (c) the members present at the meeting are deemed to have been duly qualified.

## DIVISION 2: SERIOUS CASE MANAGEMENT REVIEW PANEL

### **12 Membership and functions of the Serious Case Management Review Panel**

- (1) The Serious Case Management Review Panel is to comprise, —
  - (a) the Chair or the Deputy Chair;
  - (b) one member from each of the bodies specified in paragraphs (a) to (d) of section 4; and
  - (c) such other persons as the Chair may determine.
- (2) For the purposes of this regulation, “serious harm” includes, but is not limited to —
  - (a) the death of a child or vulnerable adult;
  - (b) the suffering by a child or vulnerable adult of —
    - (i) a life-threatening injury; or

- (ii) impairment to his or her physical or mental health or his or her physical, intellectual, emotional, social or behavioural development, where that impairment is serious or likely to be long-term.
- (3) The Serious Case Management Review Panel must conduct a review in any case involving a child where —
  - (a) abuse or neglect of a child is known or suspected;
  - (b) the child has died (from any cause, including suicide) or has suffered serious harm; and
  - (c) there is cause for concern about the way the following, namely, —
    - (i) the Board;
    - (ii) any of the bodies listed in paragraphs (a) to (d) of section 4; and
    - (iii) any other relevant body;have worked together to safeguard the child.
- (4) The Serious Case Management Review Panel must also conduct a review in the case of a death of a child occurring while the child is, —
  - (a) in the custody of the Isle of Man Constabulary;
  - (b) in the custody of an institution within the meaning of the Custody Act 1995;
  - (c) detained under the Mental Health Act 1998; or
  - (d) in the care of, or being looked after by, the Department of Health and Social Care.

In subparagraph (d) “looked after” has the same meaning as in the Children and Young Persons Act 2001.
- (5) The Serious Case Management Review Panel must conduct a review in any case where, —
  - (a) a vulnerable adult has died and where abuse or neglect is known or suspected;
  - (b) a vulnerable adult has suffered serious harm;and the condition in paragraph (6) is satisfied.
- (6) The condition in this paragraph is satisfied if there is cause for concern about the way the following, namely, —
  - (a) the Board;
  - (b) any of the bodies listed in paragraphs (a) to (d) of section 4; and
  - (c) any other relevant body;have worked together to safeguard the vulnerable adult.
- (7) Despite anything in paragraphs (3), (5) and (6) a review need not be conducted if, in the opinion of the Chair, it is unlikely that it would

contribute significantly to learning and an improvement in safeguarding practice.

### **13 Meetings and proceedings of the Serious Case Management Review Panel**

- (1) The first meeting of the Serious Case Management Review Panel is to be held on such date and at such time and place as may be determined by the Chair, who is to be responsible for convening the meeting.
- (2) The Panel must meet at least four times a year.
- (3) At a meeting of the Panel, the Chair, or in the absence of the Chair, the Deputy Chair is to preside.
- (4) Before each meeting of the Panel a notice of the meeting which specifies the business to be transacted and is signed by the Chair or a person authorised to sign on behalf of the Chair must be sent to each member of the Panel so as to be available to the member at least seven days before the meeting.
- (5) The proceedings of any meeting are not invalidated by reason of a failure to give notice of it to a member.
- (6) Three members of the Panel constitute a quorum.
- (7) In the case of an equality of votes on any resolution or decision of the Panel, the person presiding shall have a second and casting vote.
- (8) The Business Manager is to maintain a record of the proceedings of a meeting of the Panel, which must include reasons for deciding whether or not a serious case management review should be commissioned.
- (9) The record under paragraph (7) is to be signed, either at the meeting to which it relates or at the following meeting by the person presiding.
- (10) Any record under paragraph (7) which purports to be signed in accordance with paragraph (8) is to be received in evidence without further proof.
- (11) Until the contrary is proved, if a record of any meeting of the Panel has been made and signed in accordance with paragraphs (7) and (8) —
  - (a) the Panel is deemed to have been duly constituted and to have had power to deal with the matters referred to in the record,
  - (b) the meeting is deemed to have been duly convened and held, and
  - (c) the members present at the meeting are deemed to have been duly qualified.

## **PART 4 – REVOCATION**

### **14 Revocation**

The Safeguarding Board (Qualifications and Procedures) Regulations 2018 and the Safeguarding Board (Qualifications and Procedures) Regulations 2019 are revoked.

**MADE 20 MARCH 2019**

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.

<sup>2</sup> Subpara (ba) inserted by SD2024/0057.

<sup>3</sup> Para (3) amended by SD2024/0057.