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SAFEGUARDING BOARD (QUALIFICATIONS AND PROCEDURES) REGULATIONS 2018

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Statutory Document No. 20XX/XXXX

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Safeguarding Act 2018

SAFEGUARDING BOARD (QUALIFICATIONS AND PROCEDURES) REGULATIONS 2018

Approved by Tynwald:

Coming into Operation:

1 January 2019

The Cabinet Office makes the following Regulations under sections 3, 9(4) and 18 of the Safeguarding Act 2018¹.

PART 1: INTRODUCTION

1 Title

These Regulations are the Safeguarding Board (Qualifications and Procedures) Regulations 2018.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 1 January 2019.

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 —
“**the Board**” means the Safeguarding Board established under section 6;
“**the Business Manager**” means the Business Manager to the Board;
“**the Deputy Chair**” means the Deputy Chair of the Board appointed under regulation 4;

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

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 who shall, if present, take the chair at any meeting of the Board at which the Chair is not present, or for any item on the agenda in respect of which the Chair has a conflict of interest.
- (2) 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 such time as may be necessary for the proper exercise of its functions.
- (2) The agenda for a meeting convened under paragraph (1) must be sent to members and those in attendance (see regulation *x*) at least 7 days in advance of the meeting.
- (3) Meetings of the Board shall 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 must 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 must 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) The quorum necessary for the transaction of business by the Board shall be 5 members of the Board, and no business may be transacted at meeting unless a quorum is 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 (and references to quorum and voting rights in these Regulations are to be read accordingly).
- (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, a meeting of the Board a record of which has been made under paragraph (1) and signed in accordance with paragraph (2) is deemed to have been duly convened and held, and all the members present are to be deemed to have been duly qualified.
- (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 purporting to be signed by a person holding the office of Business Manager to the Board, or a person authorised to sign it by such a person or the Board, and 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 sub-paragraph (2),is evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution or minutes 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);

- (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;
 - (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 as mentioned in paragraph (7) 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: DISQUALIFICATION FOR MEMBERSHIP OF THE BOARD OR A PANEL

9 Disqualification for independent membership of the Board

- (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 ten 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;
 - (c) the Department of Home Affairs;
 - (d) the former Departments of —
 - (i) Education²,
 - (ii) Education and Children;
 - (iii) Health³,
 - (iv) Health and Social Security⁴;
 - (v) Social Care⁵;
 - (e) the Isle of Man Constabulary;
 - (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.
- (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) a Department or Statutory Board; or
 - (b) any of the persons represented on the Safeguarding Board by virtue of 4(a) to (d) of the Act.
- (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)⁶;
 - (ii) Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989⁷; or
 - (b) a bankruptcy restrictions order under section 155 of the Bankruptcy (Scotland) Act 2016⁸.
- (7) This paragraph applies to a person who is subject to —

² Renamed the Department of Education and Children by article 4(3) of SD 2010/155.

³ Established by article 4(1) of SD 2010/155 and dissolved by article 5 of SD 2014/008.

⁴ Dissolved by article 4(2) of SD 2010/155.

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

⁶ 1986 c. 45.

⁷ SI 1989/2405 (NI 9).

⁸ 2016 asp 21.

- (a) a disqualification under —
 - (i) the Company Officers (Disqualification) Act 2009;
 - (ii) the Company Directors Disqualification Act 1986 (of Parliament)⁹;
 - (iii) the Company Directors Disqualification (Northern Ireland) Order 2002¹⁰; 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;
 - (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)¹¹;
 - (c) from being concerned in the management or control of a charity under section 34 of the Charities and Trustee Investment (Scotland) Act 2005¹²;
 - (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) 2008¹³ 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.
- (10) This paragraph applies to a person who —
- (a) is a person who has been removed from the office with any of the persons or bodies represented on the Safeguarding Board by virtue of section 4(2)(a) to (d) of the Act;

⁹ 1986 c. 46.

¹⁰ SI 2002/3150 (N.I. 4).

¹¹ 2011 c. 25.

¹² 2005 asp 10.

¹³ 2008 c. 12 (N.I.)

- (c) is a person 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)¹⁴,
 - (iii) Part 3 of the Regulation of Care (Scotland) Act 2001¹⁵ or Chapter 3 of Part 5 of the Public Service Reform (Scotland) Act 2010¹⁶, or
 - (iv) Part 1 of the Health and Personal Social Services Act (Northern Ireland) 2001¹⁷;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;
- (d) is a person whose registration as a health care professional has been withdrawn or suspended;
- (e) is a person 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)¹⁸,
 - (ii) Article 7 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007¹⁹.
- (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.
- (12) For the purposes of paragraph (5) “dismissed” excludes dismissal which was established to have been unfair in industrial tribunal proceedings.

¹⁴ 2000 c.14.

¹⁵ 2001 asp 8.

¹⁶ 2010 asp 8.

¹⁷ 2001 c.3 (N.I.).

¹⁸ 2006 c. 47.

¹⁹ S.I. 2007/1351.

PART 3: PROCEDURE OF PANELS

10 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 and at such 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.

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 Chair shall have a second and casting vote.
- (6) Until the contrary is proved, if a minute of any meeting of the Panel has been made and signed in accordance with sub-paragraph (1) –
 - (a) the Panel shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute,
 - (b) the meeting shall be deemed to have been duly convened and held, and
 - (c) the members present at the meeting shall be deemed to have been duly qualified.

11 Meetings of the Serious Case Management Review Panel

- (1) The first meeting of the Serious Case Management Review Panel is to be held on such and at such 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.

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

- (5) Three members of the Panel constitute a quorum.
- (6) In the case of an equality of votes on any resolution or decision of the Panel, the Chair shall have a second and casting vote.
- (7) Until the contrary is proved, if a minute of any meeting of the Panel has been made and signed in accordance with sub-paragraph (1) —
 - (a) the Panel shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute,
 - (b) the meeting shall be deemed to have been duly convened and held, and
 - (c) the members present at the meeting shall be deemed to have been duly qualified.

MADE

R H QUAYLE
Chief Minister

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations make provision about the procedure to be adopted by the Safeguarding Board, the Action and Implementation Panel and the Serious Case Management Review Panel all of which are established by the Safeguarding Act 2018.

Part 1 (regulations 1 to 3) deals with introductory matters.

Part 2 (regulations 4 to 9) deals with the composition and procedure of the Board, and the disqualification of persons for membership of the Board.

Part 3 (regulations 10 and 11) deals with the procedure of the Action and Implementation Panel and the Serious Case Management Review Panel.