



# Education (Wales) Act 2014

2014 anaw 5

## PART 2

### EDUCATION WORKFORCE

#### *Disciplinary functions of the Council*

#### **26 Disciplinary functions**

- (1) The Council must carry out such investigations as it considers appropriate in cases where—
  - (a) it is alleged that a registered person—
    - (i) is guilty of unacceptable professional conduct or serious professional incompetence, or
    - (ii) has been convicted (at any time) of a relevant offence, or
  - (b) it appears to the Council that a registered person may be so guilty or have been so convicted.
- (2) The Council must decide, after carrying out an investigation under subsection (1), what further action to take in respect of the case.
- (3) The actions the Council may take are—
  - (a) if it considers that there is no case to answer, to discontinue the case;
  - (b) if it considers that there is (or may be) a case to answer—
    - (i) to hold a hearing in respect of the case, or
    - (ii) with the consent of the person to whom the investigation relates, to determine the case without a hearing;
  - (c) to discontinue the case on some other basis.
- (4) Where the Council holds a hearing or the person consents to the case being determined without a hearing, the Council may determine—
  - (a) that there is no case to answer;

*Status: Point in time view as at 01/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Education (Wales) Act 2014, Cross Heading: Disciplinary functions of the Council. (See end of Document for details)*

- (b) that the person is guilty of unacceptable professional conduct, serious professional incompetence or has been convicted of a relevant offence.
- (5) Where the Council determines that a person—
  - (a) is guilty of unacceptable professional conduct or serious professional incompetence, or
  - (b) has been convicted of a relevant offence,
 the Council may make a disciplinary order in relation to the person.
- (6) The Welsh Ministers may by regulations make provision for any functions conferred on the Council under this section to be excluded or restricted in such manner as may be specified in or determined under the regulations.
- (7) The provision that may be made under subsection (6) includes such provision for excluding or restricting any such functions as the Welsh Ministers consider appropriate with a view to taking account of the powers exercisable by the Disclosure and Barring Service under the Safeguarding Vulnerable Groups Act 2006 (c. 47).

#### Commencement Information

**II** S. 26 in force at 16.1.2015 by S.I. 2015/29, art. 2(o)

## 27 Disciplinary functions: interpretation

- (1) For the purposes of section 26—
  - “registered person” includes—
    - (a) a person who was registered at the time of any alleged conduct or offence (whether under section 9 or under section 3 of the 1998 Act), and
    - (b) a person who has applied to be so registered;
  - “relevant offence”, in relation to a registered person, means—
    - (a) in the case of a conviction in the United Kingdom, a criminal offence other than one having no material relevance to the person's fitness to be a registered person in the relevant category of registration;
    - (b) in the case of a conviction elsewhere, an offence which, if committed in England and Wales, would constitute such an offence as is mentioned in paragraph (a).
- (2) In this Part, a “disciplinary order” means—
  - (a) a reprimand;
  - (b) a conditional registration order;
  - (c) a suspension order;
  - (d) a prohibition order.
- (3) Where regulations under paragraph 12(1)(b) of Schedule 1 require the Council to establish a committee for the purpose of discharging any of the functions conferred on the Council under section 26, references in that section to the Council are to be construed as references to that committee.

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#### Commencement Information

**I2** S. 27 in force at 16.1.2015 by S.I. 2015/29, art. 2(p)

### 28 Disciplinary functions: further provision

- (1) The Welsh Ministers may by regulations make provision about or in connection with the functions of the Council under section 26.
- (2) Regulations under subsection (1) may, in particular, make provision—
  - (a) about the procedure relating to any investigation or proceedings (including notice requirements, compelling attendance, admissibility of evidence and the administration of oaths);
  - (b) about disciplinary orders (including service requirements, when orders take effect, and the review of orders);
  - (c) about the action that may be required of and in relation to the employer of a person who is the recipient of a disciplinary order (including dismissing the recipient of the order).
- (3) No person is to be required by virtue of regulations under this section to give any evidence or produce any document or other thing which that person could not be compelled to give or produce in civil proceedings in any court in England and Wales.

#### Commencement Information

**I3** S. 28 in force at 16.1.2015 by S.I. 2015/29, art. 2(q)

### 29 Conditional registration orders

- (1) Subsection (2) applies where a conditional registration order is made in relation to a person.
- (2) The person—
  - (a) remains eligible for registration under section 9, but
  - (b) must comply with such conditions relevant to the person's employment as a registered person as may be specified in the order.
- (3) The conditions specified may (among other things)—
  - (a) require the person to take any specified steps that will, in the opinion of the Council, help the person become a competent registered person;
  - (b) involve expenditure on the part of the person.
- (4) Any condition specified in a conditional registration order is to have effect—
  - (a) for such period as may be so specified, or
  - (b) without limit of time.
- (5) But the Council may, on the application of a person who has received a conditional registration order, vary or revoke any condition specified in the order.
- (6) An application under subsection (5) must be made in accordance with any regulations made for that purpose under section 28.

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#### Commencement Information

- I4** S. 29 in force at 16.1.2015 for specified purposes by S.I. 2015/29, art. 2(r)  
**I5** S. 29 in force at 1.4.2015 in so far as not already in force by S.I. 2015/29, art. 3(m)

### 30 Suspension orders

- (1) Subsections (2) and (3) apply where a suspension order is made in relation to a person.
- (2) The person's name must be removed from the register (if it has not already been removed).
- (3) The person becomes ineligible for registration under section 9 for the period (not exceeding two years) specified in the order.
- (4) A suspension order may specify conditions to be complied with by the person to whom the order relates and, in that case—
  - (a) the person is to become eligible again for registration under section 9 at the end of the period specified under subsection (3) if the person has complied with the conditions, and
  - (b) if the person has not complied with the conditions, the person remains ineligible for registration until the person has complied with the conditions.
- (5) Any condition specified in a suspension order is to have effect—
  - (a) for such period as may be so specified, or
  - (b) without limit of time.
- (6) But the Council may, on the application of a person who has received a suspension order, vary or revoke any condition specified in the order.
- (7) An application under subsection (6) must be made in accordance with any regulations made for that purpose under section 28.

#### Commencement Information

- I6** S. 30 in force at 16.1.2015 for specified purposes by S.I. 2015/29, art. 2(s)  
**I7** S. 30 in force at 1.4.2015 in so far as not already in force by S.I. 2015/29, art. 3(n)

### 31 Prohibition orders

- (1) Subsections (2) and (3) apply where a prohibition order is made in relation to a person.
- (2) The person's name must be removed from the register (if it has not already been removed).
- (3) The person becomes ineligible for registration under section 9.
- (4) The Council may, on the application of a person who has received a prohibition order, determine that a person is eligible again for registration.
- (5) An application under subsection (4) must be made in accordance with any regulations made for that purpose under section 28.

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- (6) No such application may be made before the end of the period of two years beginning with the date when the prohibition order takes effect or such longer period as may be specified in the order.

**Commencement Information**

- I8** S. 31 in force at 16.1.2015 for specified purposes by S.I. 2015/29, art. 2(t)  
**I9** S. 31 in force at 1.4.2015 in so far as not already in force by S.I. 2015/29, art. 3(o)

**32 Appeals against disciplinary orders**

- (1) A person in respect of whom a disciplinary order has been made may appeal against the order to the High Court.
- (2) An appeal under subsection (1) must be made within the period of 28 days beginning with the date on which notice of the order is served on the person.
- (3) In respect of such an appeal the High Court may make any order which it considers appropriate.
- (4) The decision of the High Court is final (and may not be appealed).

**Commencement Information**

- I10** S. 32 in force at 1.4.2015 by S.I. 2015/29, art. 3(p)

**Status:**

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**Changes to legislation:**

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