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WELSH STATUTORY INSTRUMENTS

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**2015 No. 140 (W. 8)**

**EDUCATION, WALES**

**The Education Workforce Council (Main Functions) (Wales) Regulations 2015**

<i>Made</i>	- - - -	<i>3 February 2015</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>6 February 2015</i>
<i>Coming into force</i>	- -	<i>1 April 2015</i>

The Welsh Ministers in exercise of the powers conferred on them by sections 10(2)(b), 13, 14, 15, 25, 26(6), 28, 33, 35(4), 36(2), 37(2) and 47(1) of, and paragraph 12 of Schedule 2 to, the Education (Wales) Act 2014(1) make the following Regulations:

**PART 1**

**Introduction**

**Title, commencement and application**

1.—(1) The title of these Regulations is the Education Workforce Council (Main Functions) (Wales) Regulations 2015 and they come into force on 1 April 2015.

(2) These Regulations apply in relation to Wales.

(3) Part 7 of these Regulations does not apply where a relevant employer or an agent is required to provide information to the Disclosure and Barring Service under sections 35, 36 or 39 of the Safeguarding Vulnerable Groups Act 2006(2) in relation to a registered person's case, the facts of which they would otherwise be required to report under regulation 45(1) or 46(1) in Part 7 of these Regulations.

**Revocation, savings and transitional provisions**

2.—(1) Subject to paragraph (2) the Regulations in Part 1 of Schedule 1 are revoked.

(2) The savings and transitional provisions mentioned in Part 2 of Schedule 1 have effect.

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(1) 2014 anaw 5.  
(2) 2006 c. 47.

## Interpretation

### 3.—(1) In these Regulations—

- “the 1996 Act” (“*Deddf 1996*”) means the Employment Rights Act 1996**(3)**;
- “the 1998 Act” (“*Deddf 1998*”) means the Teaching and Higher Education Act 1998**(4)**;
- “the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002**(5)**;
- “the 2014 Act” (“*Deddf 2014*”) means the Education (Wales) Act 2014;
- “the 1959 Regulations” (“*Rheoliadau 1959*”) means the Schools Regulations 1959**(6)**;
- “the 1982 Regulations” (“*Rheoliadau 1982*”) means the Education (Teachers) Regulations 1982**(7)**;
- “the 1989 Regulations” (“*Rheoliadau 1989*”) means the Education (Teachers) Regulations 1989**(8)**;
- “the 2002 Regulations” (“*Rheoliadau 2002*”) means the Further Education Teachers’ Qualifications (Wales) Regulations 2002**(9)**;
- “the 2004 Regulations” (“*Rheoliadau 2004*”) means the Education (School Teachers’ Qualifications) (Wales) Regulations 2004**(10)**;
- “advanced skills teacher” (“*athro neu athrawes uwch-sgiliau*”) means a teacher who has been certified by an assessor appointed by the Secretary of State as eligible for appointment to an advanced skills teacher post;
- “agent” (“*asiant*”) has the meaning given by section 37 of the 2014 Act;
- “An Chomhairle Mhúinteoireachta or the Teaching Council” (“*An Chomhairle Mhúinteoireachta neu’r Cyngor Addysgu*”) means the Teaching Council established under section 5 of the Teaching Council Act, 2001**(11)** (which body has functions corresponding to those of the Council in relation to the Republic of Ireland);
- “appropriate body” (“*corff priodol*”) has the same meaning as in the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005**(12)**;
- “arrangements” (“*trefniadau*”) means arrangements of the kind referred to in section 37(1) of the 2014 Act for a person who is a registered person to provide relevant services in Wales;
- “assistant head teacher” (“*pennaeth cynorthwyol*”) means a qualified teacher (within the meaning of section 132 of the 2002 Act) with leadership responsibilities across the whole school who is appointed to the post of assistant head teacher;
- “Code of Practice” (“*Cod Ymarfer*”) means the code of practice prepared and published under section 24 of the 2014 Act;
- “disciplinary proceedings” (“*achos disgyblu*”) in relation to a registered person in Wales means disciplinary proceedings under sections 26 to 32 of the 2014 Act;

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**(3)** 1996 c. 18.

**(4)** 1998 c. 30.

**(5)** 2002 c. 32.

**(6)** S.I. 1959/364 as amended by S.I. 1968/1281, S.I. 1969/1777, S.I. 1971/342, S.I. 1973/2021 and S.I. 1978/1144. Now revoked by S.I. 1982/106.

**(7)** S.I. 1982/106 as amended by S.I. 1988/542 and S.I. 1989/329. Now revoked by S.I. 1989/1319.

**(8)** S.I. 1989/1319 as amended by S.I. 1989/1541, S.I. 1990/1561, S.I. 1991/1134, S.I. 1991/1840, S.I. 1991/2240 and S.I. 1992/1809. Now revoked by S.I. 199/543.

**(9)** S.I. 2002/1663 as amended by S.I. 2003/1717 and S.I. 2004/1745.

**(10)** S.I. 2004/1729 as amended by S.I. 2007/2811 and S.I. 2008/215.

**(11)** Number 8 of 2001. An Chomhairle Mhúinteoireachta or the Teaching Council, is established under section 5 of the Teaching Council Act 2001, and has functions corresponding to those of the Council in relation to the Republic of Ireland.

**(12)** S.I. 2005/1818 (W. 146). These Regulations will be revoked and re-made as a consequence of the commencement of the repeal of the enabling powers by the Education (Wales) Act 2014, but at the date the Regulations are made the Education (Induction Arrangements for School Teachers) (Wales) Regulations 2005 remain in force.

“employer” (“*cyflogwr*”) means a person who employs or engages to provide a registered person to provide relevant services;

“Fitness to Practice Committee” (“*Pwyllgor Addasrwydd i Ymarfer*”) means a committee established under regulation 22;

“further education teacher” (“*athro neu athrawes addysg bellach*”) means a person registered in the further education teacher category of registration;

“independent school” (“*ysgol annibynnol*”) has the same meaning as in section 463 of the Education Act 1996(13);

“induction period” (“*cyfnod sefydlu*”) means an induction period served in accordance with regulations made in relation to England or Wales under—

- (a) section 19 of the 1998 Act;
- (b) section 135A of the 2002 Act; or
- (c) section 17 of the 2014 Act;

“Induction Regulations” (“*Rheoliadau Sefydlu*”) means the regulations made under the powers set out in the definition of “induction period”;

“Investigating Committee” (“*Pwyllgor Ymchwilio*”) means a committee established under regulation 20;

“leading practitioner” (“*ymarferydd arweiniol*”) means a teacher who is paid on the leading practitioner pay range as determined by the Secretary of State and set out in a document given legal effect by order under section 122 of the 2002 Act(14);

“main pay range” (“*prifystod cyflog*”) means the main pay range determined by the Secretary of State and set out in a document given legal effect under section 122 of the 2002 Act(15);

“post-threshold teacher” (“*athro neu athrawes ôl-drothwy*”) means a teacher who meets the criteria determined by the Secretary of State for that post and set out in a document given legal effect by order under section 122 of the 2002 Act(16);

“qualified teacher” (“*athro neu athrawes gymwysedig*”) has the same meaning as in section 132(1) of the 2002 Act;

“the Register” (“*y Gofrestr*”) means the register established and maintained under section 9 of the 2014 Act, and “registration” (“*cofrestru*”) means registration on the Register;

“registered teacher” (“*athro neu athrawes gofrestredig*”) means a person registered in the school teacher category of registration;

“registered person” (“*person cofrestredig*”) has the meaning given to it in section 41(1) of the 2014 Act;

“relevant offence” (“*trosedd berthnasol*”) in relation to Wales has the same meaning as in section 27(1) of the 2014 Act and in relation to England has the same meaning as in section 141B(4) of the Education Act 2002;

“school maintained by a local authority” (“*ysgol a gynhelir gan awdurdod lleol*”) has the same meaning as in section 142(1) of the School Standards and Framework Act 1998;

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(13) 1996 c. 56.

(14) The current order is the School Teachers’ Pay and Conditions Order 2014 (S.I. 2014/2045) which gives legal effect to the document entitled “Teachers’ Pay and Conditions Document 2014 and Guidance on School Teachers’ Pay and Conditions” published on the gov.uk website.

(15) The current order is the School Teachers’ Pay and Conditions Order 2014 (S.I. 2014/2045) which gives legal effect to the document entitled “Teachers’ Pay and Conditions Document 2014 and Guidance on School Teachers’ Pay and Conditions” published on the gov.uk website.

(16) The current order is the School Teachers’ Pay and Conditions Order 2014 (S.I. 2014/2045) which gives legal effect to the document entitled “Teachers’ Pay and Conditions Document 2014 and Guidance on School Teachers’ Pay and Conditions” published on the gov.uk website.

“serious professional incompetence” (“*anghymhwysedd proffesiynol difrifol*”) means conduct which demonstrates a level of incompetence which falls seriously below that expected of a registered person taking into account all the relevant circumstances;

“services” (“*gwasanaethau*”) means services provided to a relevant employer in Wales and includes professional and voluntary services;

“special school” (“*ysgol arbennig*”) has the same meaning as in section 337 of the Education Act 1996;

“unacceptable professional conduct” (“*ymddygiad proffesiynol annerbyniol*”) means conduct which falls short of the standard expected of a registered person; and

“upper pay range” (“*ystod cyflog uwch*”) means the upper pay range determined by the Secretary of State and set out in a document given legal effect under section 122 of the 2002 Act<sup>(17)</sup>.

(2) In these Regulations a reference to a head teacher includes to a reference a person appointed to carry out the functions of the head teacher of the school—

- (a) pending the appointment of a head teacher, or
- (b) in the absence of the head teacher.

(3) In these Regulations a reference to a deputy head teacher includes a reference a person appointed to carry out the functions of the deputy head teacher of the school—

- (a) pending the appointment of a deputy head teacher, or
- (b) in the absence of the deputy head teacher.

## PART 2

### Registration

#### **Eligibility for registration: induction period**

4.—(1) This regulation applies to a person who, having served an induction period has failed to complete it satisfactorily for the purposes of the Induction Regulations.

(2) Such a person is eligible for registration—

- (a) during the time for making an appeal under the Induction Regulations against the decision that they have failed satisfactorily to complete an induction period; and
- (b) where such an appeal is made, pending the outcome of the appeal.

#### **Applications for registration**

5. The Council may make provision as to—

- (a) the form and manner in which applications for registration are to be made; and
- (b) the documentary and other evidence which is to accompany applications for registration.

#### **Notice of decision**

6.—(1) The Council must serve notice of its decision to grant or refuse the application on the—

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(17) The current order is the School Teachers’ Pay and Conditions Order 2014 (S.I. 2014/2045) which gives legal effect to the document entitled “Teachers’ Pay and Conditions Document 2014 and Guidance on School Teachers’ Pay and Conditions” published on the gov.uk website.

- (a) applicant for registration; and
  - (b) employer (where applicable).
- (2) In the case of a refusal to register, the notice served under paragraph (1) must state—
- (a) the grounds on which the decision was taken, and
  - (b) where the refusal was on the ground that the Council was not satisfied on the applicant's suitability for registration it must notify the applicant of—
    - (i) their right to appeal to the High Court against the decision made, and
    - (ii) the time period set out in section 11(2) of the 2014 Act for making such an appeal.
- (3) A notice required to be served on a person under this regulation may be served in accordance with regulation 54.

### **Provisional registration**

- 7.—(1) A person is eligible for provisional registration if for the time being that person meets one or more of the conditions in this regulation.
- (2) The first condition is that the person is—
- (a) a qualified teacher; and
  - (b) yet to satisfactorily complete an induction period.
- (3) The second condition is that the person is registered by the Council in the school teacher category of registration in accordance with the General Teaching Council (Registration of Temporary Teachers from Relevant European States) (England and Wales) Regulations 2009(18).

### **Registration on establishment of the Register**

- 8.—(1) The Council may register persons who have not made applications for registration but who are eligible for registration for the first time.
- (2) The Council must send written notice of their registration to all persons registered under paragraph (1).
- (3) The Council must provide free of charge a copy of the information recorded on the Register against the name of a person registered under paragraph (1), if that person so requests.
- (4) A notice required to be served on a person under this regulation must be served in accordance with regulation 54.

### **Content of the Register**

- 9.—(1) The Council must record in the Register the information set out in Part 1 of Schedule 2 against the names of all registered persons.
- (2) The Council must record in the Register the information set out in Part 2 of Schedule 2 against the names of those persons registered in the category of school teacher.
- (3) The Council may record in the Register the information set out in Part 2 of Schedule 2 against the names of those persons registered in a category of registration other than that of school teacher.
- (4) The Council may make provision as to additional matters to be recorded in the Register.

### **Division of the Register into separate parts**

10. The Council may make provision as to the division of the Register into separate parts.

### **Amending entries on the Register**

11. The Council may make provision as to the restoration and alteration of entries on the Register, and the transfer of entries between different parts of the Register.

### **Removal of entries from the Register**

12. The Council may make provision—

- (a) for it to refuse an application for registration until the appropriate registration fee has been paid; and
- (b) as to the removal of entries from the Register where the persons concerned have ceased to be eligible for registration, have failed to pay a registration fee, or otherwise.

### **Issue and form of certificates of registration**

13. The Council may make provision as to the issuing of certificates of registration to registered persons, and as to the form of such certificates.

### **Public access to the Register**

14.—(1) The Council must on receipt of a request from a member of the public inform that member of the public whether or not a person is a registered person.

(2) A reply by the Council to a request under paragraph (1) must contain the following information—

- (a) the name of the registered person;
- (b) the category of registration in which that person is registered;
- (c) the school or institution in which they are currently employed or otherwise engaged (if applicable); and
- (d) such other particulars as the Council may determine.

(3) The Council may make available the names of persons on the Register in such manner as the Council determines.

## **PART 3**

### **Requirement to be registered: school teachers**

#### **Requirement to be qualified**

15. No person may carry out work specified in regulation 17 in a school unless they—

- (a) are a qualified teacher; or
- (b) satisfy the requirements specified in at least one of the paragraphs of Schedule 3.

#### **Extension of specified period**

16. Where any person is permitted to carry out work specified in regulation 17 for a specified period by virtue of any of the provisions of Schedule 3, that period will be extended by a period equal to the aggregate of any period or periods during which the person concerned is absent from work—

- (a) in exercise of that person's—

- (i) right to maternity leave conferred by section 71 or 73 of the 1996 Act(19) or a contract of employment and has the right to return to work by virtue of either of these sections or a contract of employment;
  - (ii) right to parental leave conferred by section 76 of the 1996 Act;
  - (iii) right to paternity leave conferred by section 80A or 80B of the 1996 Act(20); or
  - (iv) right to adoption leave conferred by section 75A or 75B of the 1996 Act(21); or
- (b) because of pregnancy.

### **Specified work**

- 17.—(1) Each of the following activities is specified work for the purposes of these Regulations—
- (a) planning and preparing lessons and courses for pupils;
  - (b) delivering lessons to pupils;
  - (c) assessing the development, progress and attainment of pupils; and
  - (d) reporting on the development, progress and attainment of pupils.
- (2) In paragraph (1)(b) “delivering” includes delivery via distance learning or computer aided techniques.

### **Requirement to be registered: school teachers**

18. Qualified teachers may carry out work specified in regulation 17 in a school only if they are registered under section 9 of the 2014 Act (register maintained by the Council).

## **PART 4**

### **Requirement to be registered: further education teachers**

#### **Requirement to be registered: further education teachers**

- 19.—(1) Subject to paragraph (2) a person may not provide education in or for a further education institution unless they are registered in the category of further education teacher with the Council.
- (2) Paragraph (1) does not apply to a person where that person only—
- (a) teaches higher education in or for a further education institution;
  - (b) provides on a temporary or occasional basis training updates for—
    - (i) industry,
    - (ii) commerce, or

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(19) Section 71 was amended by paragraph 31, and section 73 by paragraph 32, of Schedule 1 to the Work and Families Act 2006 (c. 18) and both sections were amended by section 17 of the Employment Act 2002 (c. 22). Section 71 was further amended by section 118(1), (2)(a) and (b) of the Children and Families Act 2014 (c. 6). Section 73 was further amended by section 118(1), (3)(a), (b) and (c) of the Children and Families Act 2014.

(20) Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22), and sections 80AA and 80BB were inserted by sections 3 and 4 respectively of the Work and Families Act 2006 (c. 18). Section 80A was further amended by section 118(1) and (6) of, and paragraphs 29 and 32 of Schedule 7 to, the Children and Families Act 2014. Section 80B was further amended by sections 118(1) and (7), 121(2)(a) and (b), 122(4) and 128(2)(b) of, and paragraphs 29 and 33 of Schedule 7 to, the Children and Families Act 2014.

(21) Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22). Section 75A was amended by paragraph 33 of Schedule 1 to the Work and Families Act 2006 (c. 18) and by sections 118(1), (4)(b) and (c) and 122(1) of the Children and Families Act 2014. Section 75B was further amended by section 118(1), (5)(b) and (c) of the Children and Families Act 2014.

- (iii) professional practice;
- (c) hires premises from a further education institute or otherwise makes use of a further education institution's premises with its consent; or
- (d) provides training at the request and specific to the requirements of an external body or organisation.

## PART 5

### Disciplinary functions

#### **Establishment of Investigating Committees**

**20.** The Council must establish one or more committees to be known as Investigating Committees for the purposes of carrying out the functions in section 26(1) and (2) of the 2014 Act.

#### **Delegation of Investigating Committees' functions**

**21.—(1)** An Investigating Committee may delegate to an employee of the Council the functions of—

- (a) deciding whether to investigate, and investigating, allegations of a particular character or description, or particular allegations—
  - (i) against a registered person; or
  - (ii) that a registered person has been convicted of a relevant offence;
- (b) deciding whether a registered person has a case to answer in relation to a matter investigated under sub-paragraph (a);
- (c) discontinuing a case against a registered person where the employee has decided under sub-paragraph (b) that there is no case to answer.

(2) Part 5 of these Regulations applies to the exercise of a function by an employee of the Council as they would apply to the exercise of that function by an Investigating Committee.

#### **Establishment of Fitness to Practice**

**22.—(1)** The Council must establish one or more committees to be known as Fitness to Practice Committees for the purposes of carrying out the functions referred to in paragraph (2).

(2) The functions of a Fitness to Practice Committee are to—

- (a) determine cases referred to it by an Investigating Committee where it appeared to the Investigating Committee that the registered person has a case to answer in relation to—
  - (i) unacceptable professional conduct;
  - (ii) serious professional incompetence; or
  - (iii) conviction of a relevant offence;
- (b) consider whether to make a disciplinary order in relation to that registered person and if it considers that such an order should be made, to make such an order where a Fitness to Practice Committee finds a registered person—
  - (i) guilty of unacceptable professional conduct;
  - (ii) guilty of serious professional incompetence; or
  - (iii) to have been convicted of a relevant offence; and

- (c) determine applications under regulations 37, 39 or 40, or matters arising in relation to disciplinary orders under regulations 38 or 41.

### **Form and content of code of conduct and practice**

**23.** The code of conduct and practice must contain as a minimum provision dealing with the following matters—

- (a) basing relationships between learners and registered persons on mutual trust and respect;
- (b) having regard to the safety and well-being of learners;
- (c) working in a collaborative manner with colleagues and other professionals;
- (d) developing and maintaining good relationships with parents, guardians and carers;
- (e) acting with honesty and integrity;
- (f) being sensitive to the need for confidentiality, where appropriate;
- (g) taking responsibility for maintaining the quality of professional practice; and
- (h) upholding public trust and confidence in the education workforce.

### **Use of the code of conduct and practice in disciplinary matters**

**24.** An Investigating Committee or a Fitness to Practice Committee must take into account any failure by a registered person to comply with the code of conduct and practice in any disciplinary proceedings against that person.

### **Provision of copies of the code of conduct and practice**

**25.—(1)** The Council must make copies of the code of conduct and practice available free of charge to all registered persons—

- (a) when the code of conduct and practice is first issued or on a person’s first registration (if the person was not a registered person when the code of conduct and practice was first issued); and
- (b) when the code of conduct and practice is revised.

(2) The Council must make available a copy of the code of conduct and practice at any website maintained by it on the internet.

(3) Subject to paragraph (1) the Council must on request provide copies of the code of conduct and practice on payment of such reasonable charge as it may decide.

### **Membership and procedure of Committees**

**26.—(1)** The Council must include on an Investigating Committee or a Fitness to Practice Committee (“a Committee”)—

- (a) one or more lay members; and
- (b) one or more registered person member.

(2) The quorum for a meeting of a Committee is three members, including one lay member and one registered person member.

(3) A person who is a member of the Council must not be appointed as a member of a Committee.

(4) A person who is a member of the Investigating Committee investigating a case must not be appointed as a member of the Fitness to Practice Committee which determines that case.

(5) Subject to paragraphs (1) to (4) and regulations 37, 39 and 40, the Council may make such provision as it see fit as to—

- (a) the membership of a Committee;
- (b) the terms on which a Committee's members are to hold and vacate office; and
- (c) the procedure of a Committee.

(6) In this regulation—

- (a) “lay member” (“*aelod lleyg*”) means a member of the Committee who is not—
  - (i) a registered person;
  - (ii) employed, or engaged to provide relevant services within the period of 5 years ending with the date of that person's appointment to the Committee;
  - (iii) barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006<sup>(22)</sup>);
  - (iv) subject to a disciplinary order made under the 2014 Act by virtue of which the person is ineligible to register; or
  - (v) disqualified from working in a post equivalent to a category of registration;
- (b) “registered person member” (“*aelod sy'n berson cofrestredig*”) means a person who is—
  - (i) a registered person from the same category of registration as the registered person who is the subject of the disciplinary proceedings; and
  - (ii) employed, or engaged otherwise than under a contract of employment, in one of the posts described in the categories of registration on the date of that registered person member's appointment to the Committee.

(7) A registered person member who ceases to be registered person or who ceases to be employed or engaged in one of the posts described in the categories of registration must cease to be a registered person member.

(8) A lay member who becomes a registered person ceases to be regarded as a lay member.

### **Exclusion or restriction of Committees' powers**

**27.—**(1) An Investigating Committee's functions under Part 5 of these Regulations are excluded in a case where—

- (a) it is alleged that a registered person is guilty of unacceptable professional conduct or has been convicted (at any time) of a relevant offence, or it appears to it that a registered person may be so guilty or have been so convicted; and
- (b) the Secretary of State considers that the case concerns the safety and welfare of persons who have not attained the age of 18 and wishes to consider the case with a view to exercising their powers under section 141B of the Education Act 2002 on the grounds—
  - (i) that a person is unsuitable to work with children, or
  - (ii) relating to a person's misconduct or health, or
- (c) the Disclosure and Barring Service, established by section 87(1) of the Protection of Freedoms Act 2012<sup>(23)</sup>, has included, or is considering whether to include, a registered person in either of the barred lists maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006<sup>(24)</sup>.

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<sup>(22)</sup> 2006 c. 47.

<sup>(23)</sup> 2012 c. 9.

<sup>(24)</sup> 2006 c. 47.

(2) An Investigating Committee's functions under Part 5 of these Regulations are excluded in a case where—

- (a) it is alleged that a registered person is guilty of serious professional incompetence or it appears to it that a registered person may be so guilty; and
- (b) information has not been provided to the Council pursuant to Part 7 of these Regulations which the Investigating Committee considers is necessary to enable it to carry out its functions under Part 5 of these Regulations.

### **Proceedings of Investigating Committees**

**28.**—(1) Where an Investigating Committee decides to carry out an investigation in relation to a registered person, it must at such stage in the investigation as they consider appropriate—

- (a) inform the registered person of the nature of the allegation or case against them, and their rights under regulation 30;
- (b) afford the registered person an opportunity to submit evidence and make written representations; and
- (c) consider such evidence and representations and any other evidence and material available to it.

(2) An Investigating Committee may decide to discontinue an investigation at any time before a case is referred for determination by a Fitness to Practice Committee.

(3) When its investigation is complete the Investigating Committee must take one of the following steps—

- (a) refer the case for determination by a Fitness to Practice Committee; or
- (b) discontinue the case.

(4) Where an Investigating Committee decides to discontinue an investigation or a case it must inform the registered person concerned and their employer that—

- (a) the investigation has been discontinued; and
- (b) the registered person concerned had no case to answer.

(5) Where an Investigating Committee decides that a registered person has no case to answer, it must at that person's request publish a statement to that effect.

(6) The Council may make such other provision as to the procedure to be followed by an Investigating Committee in connection with the Investigating Committees' investigations and other proceedings as it sees fit, and may from time to time revise any rules of procedure made under this paragraph.

### **Proceedings of Fitness to Practice Committees**

**29.**—(1) A Fitness to Practice Committee must determine cases against registered persons referred to it by an Investigating Committee in accordance with these Regulations and rules made by the Council under regulation 34.

(2) Where a Fitness to Practice Committee decides at any time after a case is referred to them by an Investigating Committee to discontinue that case, it must inform the registered person concerned and their employer that the—

- (a) investigation has been discontinued; and
- (b) registered person concerned had no case to answer.

(3) Where a Fitness to Practice Committee decides that a registered person has no case to answer, it must at that person's request publish a statement to that effect.

(4) A Fitness to Practice Committee may refer a case to an Investigating Committee.

#### **Entitlement to appear and be represented at hearings**

**30.**—(1) A registered person is entitled to appear and make oral representations and to be represented, by any person or persons whom they desire, at any hearing of a Fitness to Practice Committee at which their case is considered.

(2) Where a registered person does not appear at a hearing of a Fitness to Practice Committee at which their case is considered, the registered person is entitled to make written representations.

#### **Attendance of witnesses**

**31.** A Fitness to Practice Committee may require any person to attend and give evidence or to produce documents or other material evidence at any hearing.

#### **Requirement for hearings to be held in public**

**32.**—(1) A Fitness to Practice Committee must announce its determination of the outcome of all hearings in public and subject to paragraphs (2) and (3) all hearings of a Fitness to Practice Committee must take place in public.

(2) A Fitness to Practice Committee may deliberate in private at any time and for any purpose during or after a hearing.

(3) A Fitness to Practice Committee may exclude the public from a hearing or any part of a hearing—

- (a) where it appears to the committee that it is necessary in the interests of justice to exclude the public;
- (b) where the registered person against whom disciplinary proceedings are being taken makes a written request that the hearing should be in private, and the Fitness to Practice Committee does not consider it to be contrary to the public interest to hold the hearing in private; or
- (c) where it is necessary to protect the interests of children.

#### **Administration of oaths and affirmations**

**33.** A Fitness to Practice Committee may require any witness at a hearing to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due course.

#### **Other provisions about Fitness to Practice Committees**

**34.** The Council may make such other provision as to the procedure to be followed by a Fitness to Practice Committee in connection with the committee's determinations and other proceedings as it sees fit, and may from time to time revise any rules of procedure made under this paragraph.

#### **Disciplinary orders**

**35.**—(1) A disciplinary order must record the decision of the Fitness to Practice Committee, the date on which the order is made, and the date on which the order takes effect.

(2) A disciplinary order takes effect on the date on which notice of it is served on the person in relation to whom it is made except where a Fitness to Practice Committee otherwise decide.

(3) A Fitness to Practice Committee must serve a notice of the disciplinary order on the person in relation to whom it is made containing the following information—

- (a) the text of the order;
  - (b) a description of the effect of the order;
  - (c) the Fitness to Practice Committee's reasons for making the order;
  - (d) notification of the registered person's right to appeal to the High Court against the order and the time period for making such an appeal;
  - (e) where the order is a conditional registration order, an explanation of—
    - (i) the steps a Fitness to Practice Committee are empowered to take should the registered person fail to comply with a condition specified in it; and
    - (ii) that person's right to apply to vary or revoke a condition specified in the order and the method for making such an application;
  - (f) where the order is a suspension order which specifies conditions, an explanation of the registered person's right to apply to vary or revoke a condition specified in the order and the method for making such an application; and
  - (g) where the order is a prohibition order, an explanation of the registered person's right to apply for a determination that they are eligible for registration and the method for making such an application.
- (4) A Fitness to Practice Committee must serve notice of the order on the registered persons present or last employer and, where relevant, agent.
- (5) Where following the determination of a case by a Fitness to Practice Committee it decides not to make a disciplinary order in relation to a registered person, the committee must notify the registered person concerned and their employer—
- (a) of its decision and the reasons for it; and
  - (b) whether it decided that the case against them was not proved.
- (6) Where it does not find the case against a registered person proved, a Fitness to Practice Committee must at the registered person's request publish a statement to that effect.

### **Publication of disciplinary orders**

**36.—**(1) Subject to paragraph (2) the Council must publish the information set out in paragraph (3) in relation to a disciplinary order—

- (a) on a website which it maintains on the internet for the period for which the order is to have effect or for a period of six months starting on the date on which the order takes effect (whichever is the later); or
  - (b) in such other manner as it sees fit.
- (2) The duty to publish the information in paragraph (3) does not apply where in the opinion of the Council not publishing appears necessary—
- (a) in the interests of justice; or
  - (b) to protect the interests of children.
- (3) The information to be published is—
- (a) the name of the person in relation to whom the order is made and the name of the—
    - (i) school at which the person was last employed;
    - (ii) further education institution or higher education institution at which the person was last employed, or
    - (iii) local authority where the person was last employed by a local authority otherwise than at a school or further education or higher education institution;

- (b) the type of disciplinary order;
- (c) the date on which the disciplinary order was made and takes effect;
- (d) the period for which the disciplinary order has effect (where specified);
- (e) whether the person was found to have been guilty of unacceptable professional conduct or serious professional incompetence or to have been convicted of a relevant offence;
- (f) where the person was found to have been convicted of a relevant offence, the nature and date of the conviction in question; and
- (g) where the person was found to have been guilty of unacceptable professional conduct or serious professional incompetence, an indication of the nature of the conduct which led to the making of the order.

#### **Application to vary or set aside a condition in a conditional registration order**

**37.**—(1) An application by a registered person who has received a conditional registration order to vary or revoke any condition in the order must—

- (a) be made in writing;
- (b) specify the grounds on which the registered person seeks to have any condition specified in the order varied or revoked, and
- (c) be accompanied by every document relied upon in support of the application.

(2) Where an application is made under paragraph (1) the Fitness to Practice Committee considering that application must not include as a member any person who was a member of the committee which made the order to which the application relates.

#### **Consequences of failure to comply with a conditional registration order**

**38.** Where a Fitness to Practice Committee is satisfied that a registered person against whom a conditional registration order has been made has failed to comply with any condition of it, it may make a suspension or prohibition order in relation to the registered person.

#### **Application to vary or set aside a condition in a suspension order**

**39.**—(1) An application by a person who has received a suspension order to vary or revoke a condition specified in the order must—

- (a) be made in writing;
- (b) specify the grounds on which the person seeks to have any condition specified in the order varied or revoked, and
- (c) be accompanied by every document relied upon in support of the application.

(2) Where an application is made under paragraph (1) the Fitness to Practice Committee considering that application must not include as a member any person who was a member of the committee which made the order to which the application relates.

#### **Application to review a prohibition order**

**40.**—(1) An application by a person who has received a prohibition order from the Council to determine whether they are eligible for registration must—

- (a) be made in writing;
- (b) specify the grounds on which the person seeks to have any condition specified in the order varied or revoked; and

(c) be accompanied by every document relied upon in support of the application.

(2) Where an application is made under paragraph (1) the Fitness to Practice Committee considering that application must not include as a member any person who was a member of the committee which made the order to which the application relates.

### **Review of disciplinary orders**

**41.** A Fitness to Practice Committee may at any time revoke a disciplinary order made by it where—

- (a) the only or main reason for making the order was that the person in relation to whom the order was made had been convicted of a relevant offence, and after the date the order was made the conviction in question was quashed; or
- (b) after the order was made the Fitness to Practice Committee obtain evidence not considered by it before they made the order, and it is satisfied that had it been aware of that evidence before it made the order it would not have made it.

### **Service of notices and orders**

**42.** A notice required to be served on a person for the purposes of disciplinary proceedings must be served in accordance with regulation 54.

### **Publication and provision of copies of documents**

**43.—(1)** The Council must publish any rules of procedure made under regulation 28(6) or 34—

- (a) on a website which it maintains on the internet; and
- (b) in such other manner as it sees fit.

(2) The Council must at the request of any registered person provide that person with a copy of such rules of procedure made under regulation 28(6) or 34.

(3) The Council may charge a reasonable fee for the provision of the rules of procedure in accordance with paragraph (2) but such charge must not exceed the cost of supply.

(4) The Council must publish any statement they are required to publish under regulation 28(5), 29(3) or 35(6) on a website which it maintains on the internet, and if it so wishes it may publish the statement in such other manner as it sees fit.

## **PART 6**

### **Maintenance of records**

#### **Records**

**44.—(1)** Schedule 4 (which makes provision in relation to records maintained by the Council) has effect.

(2) The Council must maintain records relating to the categories of persons listed in Part 2 of Schedule 4.

(3) The records mentioned in paragraph (2) must contain the information listed in Part 3 of Schedule 4 for such period as the Council determines or as is specified in that Part (if any) in relation to the person concerned.

(4) The records mentioned in paragraph (2) must be kept in written or electronic form.

## PART 7

### Supply of information: employers, agents and contractors

#### Employer's reports

**45.**—(1) Schedule 5 (which makes provision in relation to information supplied to the Council) has effect.

(2) A relevant employer must report to the Council the facts of a case and provide all the information listed in Part 1 of Schedule 5 that is available to the relevant employer in relation to a registered person where that employer—

- (a) has ceased to use the services of a registered person on the ground of—
    - (i) misconduct;
    - (ii) professional incompetence; or
    - (iii) conviction of a relevant offence within the meaning of section 27 of the 2014 Act; or
  - (b) may have ceased to use a registered person's services on such a ground had the registered person not ceased to provide those services.
- (3) The Council must make all information provided to it under this regulation available to—
- (a) an Investigating Committee; and
  - (b) a Fitness to Practice Committee where it considers that information is relevant to the case referred to it by the employer pursuant to paragraph (1).

#### Agent's reports

**46.**—(1) An agent must report the facts of a case to the Council and provide all the information listed in Part 2 of Schedule 5 that is available to the agent in relation to a registered person where that agent—

- (a) has terminated arrangements on the ground of—
    - (i) misconduct;
    - (ii) professional incompetence; or
    - (iii) conviction of a relevant offence within the meaning of section 27 of the 2014 Act;
  - (b) may have terminated arrangements on such a ground if the registered person had not terminated them; or
  - (c) may have refrained from making new arrangements for a registered person on such a ground if the registered person had not ceased to make themselves available for work.
- (2) The Council must make all information provided to it under this regulation available to—
- (a) an Investigating Committee; and
  - (b) a Fitness to Practice Committee where it considers that information is relevant to the case referred to it by the employer pursuant to paragraph (1).

## PART 8

### Supply of information: the Council

#### Supply of information to registered persons and others

47.—(1) The Council must supply to a registered person, on request, a copy of the information entered on the Register against that person's name.

(2) The Council must supply to a person about whom they maintain records in accordance with these Regulations, on request, a copy of those records.

(3) For the purposes of this Part a reference to a registered person in Schedule 2 is to be taken be a reference to an unregistered person about whom the Council maintains records in accordance with these Regulations.

#### Supply of information to employers

48.—(1) This regulation applies to an employer who is—

- (a) a local authority;
- (b) the governing body of a school maintained by a local authority;
- (c) the governing body of a non-maintained special school;
- (d) the proprietor of an independent school;
- (e) an institution within the higher education sector;
- (f) an institution within the further education sector;
- (g) a supply teacher agency; or
- (h) the Service Children's Education.

(2) The following are to be treated as an employer or prospective employer—

- (a) a local authority where the employer or prospective employer is the governing body of a school maintained by that authority (whether or not the governing body has made a request under paragraph (3));
- (b) the appropriate diocesan authority in relation to a Church in Wales or Roman Catholic Church school (within the meaning of section 142 of the School Standards and Framework Act 1998<sup>(25)</sup>) where the employer or prospective employer is the governing body of the school or the local authority maintaining the school (whether or not the governing body or the authority have made a request under paragraph (3)); and
- (c) the Ministry of Defence in relation to a person appointed, or being considered for appointment, as a teacher at a school maintained or assisted by the Ministry of Defence.

(3) The Council must if requested by an employer or prospective employer supply the information set out in paragraph (4) in respect of the registered or unregistered person concerned to that employer or prospective employer of—

- (a) a registered person; or
- (b) an unregistered person about whom they maintain records in accordance with these Regulations.

(4) The information referred to in paragraph (3) is—

- (a) where a person is found to be ineligible for registration pursuant to section 10(3)(b) of the 2014 Act, that fact and, where that information is provided to the General Teaching

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(25) 1998 c. 31.

Council for Scotland, An Chomhairle Mhúinteoireachta or the Teaching Council, or the General Teaching Council for Northern Ireland (but not otherwise), particulars of the grounds on which the decision to refuse the person's application for registration was taken;

- (b) paragraphs 1, 2, 15, 16 and 18 to 25 of Schedule 2 in all cases; and
- (c) paragraphs 26 to 36 of Schedule 2 (where the registered person is a school teacher).

(5) A person to whom information is supplied pursuant to (3) applies must not disclose information supplied under this regulation to any person other than one of the persons set out in paragraph (3)(a) or (b) to whom the information relates.

(6) Paragraph (5) does not prevent a local authority from disclosing information supplied to them under this regulation to the governing body of the school or institution at which the person concerned is or is proposed to be employed.

(7) The supply of any information under paragraph (3) must be subject to the condition that the information is only to be used for the purposes of ascertaining the suitability of the registered or unregistered person for employment or continued employment (as the case may be).

#### **Supply of information to the Secretary of State**

**49.**—(1) The Council must on request supply to the Secretary of State the information set out in paragraph (2) in relation to—

- (a) a registered person; or
- (b) an unregistered person about whom it maintains records in accordance with these Regulations.

(2) The information referred to in paragraph (1) is—

- (a) where a person is found to be ineligible for registration pursuant to section 10(3)(b) of the 2014 Act, that fact and, where that information is provided to the General Teaching Council for Scotland, An Chomhairle Mhúinteoireachta or the Teaching Council, or the General Teaching Council for Northern Ireland (but not otherwise), particulars of the grounds on which the decision to refuse the person's application for registration was taken;
- (b) paragraphs 1, 2, 15, 16 and 18 to 25 of Schedule 2 in all cases; and
- (c) paragraphs 26 to 36 of Schedule 2 (where the registered person is a school teacher).

(3) Where information is supplied under paragraph (1), a condition must be imposed requiring the Secretary of State not to disclose that information to any person other than one of the persons set out in paragraph (2)(a) or (b) to whom the information relates.

#### **Supply of information to the General Teaching Council for Scotland**

**50.**—(1) The Council must on request supply to the General Teaching Council for Scotland the information set out in paragraph (2) in relation to—

- (a) a registered person; or
- (b) an unregistered person about whom it maintains records in accordance with these Regulations.

(2) The information referred to in paragraph (1) is—

- (a) where a person is found to be ineligible for registration pursuant to section 10(3)(b) of the 2014 Act, that fact and, where that information is provided to the General Teaching Council for Scotland, An Chomhairle Mhúinteoireachta or the Teaching Council, or the General Teaching Council for Northern Ireland (but not otherwise), particulars of the grounds on which the decision to refuse the person's application for registration was taken;

- (b) paragraphs 1, 2, 15, 16 and 18 to 25 of Schedule 2 in all cases; and
- (c) paragraphs 26 to 36 of Schedule 2 (where the registered person is a school teacher).

(3) Where information is supplied under paragraph (1), a condition must be imposed requiring the General Teaching Council for Scotland not to disclose that information to any person other than one of the persons set out in paragraph (1)(a) or (b) to whom the information relates.

### **Supply of information to the General Teaching Council for Northern Ireland**

**51.**—(1) The Council must on request supply to the General Teaching Council for Ireland the information set out in paragraph (2) below in relation to—

- (a) a registered person; or
- (b) an unregistered person about whom it maintain records in accordance with these Regulations.

(2) The information referred to in paragraph (1) is—

- (a) where a person is found to be ineligible for registration pursuant to section 10(3)(b) of the 2014 Act, that fact and, where that information is provided to the General Teaching Council for Scotland, An Chomhairle Mhúinteoireachta or the Teaching Council, or the General Teaching Council for Northern Ireland (but not otherwise), particulars of the grounds on which the decision to refuse the person’s application for registration was taken;
- (b) paragraphs 1, 2, 15, 16 and 18 to 25 of Schedule 2 in all cases; and
- (c) paragraphs 26 to 36 of Schedule 2 (where the registered person is a school teacher).

(3) Where information is supplied under paragraph (1), a condition must be imposed requiring the General Teaching Council for Northern Ireland not to disclose that information to any person other than one of the persons set out in paragraph (1)(a) or (b) to whom the information relates.

### **Supply of information to An Chomhairle Mhúinteoireachta or the Teaching Council**

**52.**—(1) The Council must on request supply to An Chomhairle Mhúinteoireachta or the Teaching Council the information set out in paragraph (2) below in relation to—

- (a) a registered person; or
- (b) an unregistered person about whom it maintains records in accordance with these Regulations.

(2) The information referred to in paragraph (1) is—

- (a) where a person is found to be ineligible for registration pursuant to section 10(3)(b) of the 2014 Act, that fact and, where that information is provided to the General Teaching Council for Scotland, An Chomhairle Mhúinteoireachta or the Teaching Council, or the General Teaching Council for Northern Ireland (but not otherwise), particulars of the grounds on which the decision to refuse the person’s application for registration was taken;
- (b) paragraphs 1, 2, 15, 16 and 18 to 25 of Schedule 2 in all cases; and
- (c) paragraphs 26 to 36 of Schedule 2 (where the registered person is a school teacher).

(3) Where information is supplied under paragraph (1), a condition must be imposed requiring An Chomhairle Mhúinteoireachta or the Teaching Council not to disclose that information to any person other than one of the persons set out in paragraph (1)(a) or (b) to whom the information relates.

### **Supply of information to appropriate bodies**

**53.**—(1) The Council must on request supply to an appropriate body the information contained in paragraph 34 of Part 2 of Schedule 2 in relation to—

- (a) a registered person; or
- (b) an unregistered person about whom it maintains records in accordance with these Regulations.

(2) Information is only to be supplied pursuant to paragraph (1) on condition that the appropriate body does not disclose information supplied under this regulation to any person other than one of the persons set out in paragraph (1)(a) or (b) to whom the information relates.

## PART 9

### Miscellaneous provisions

#### Service of notices

54.—(1) A notice required to be served on a person under these Regulations may be served by—

- (a) delivery to that person personally;
- (b) post to the address notified by the person to the Council; or
- (c) electronic mail, where that person so requests it.

(2) A notice served in accordance with this regulation is deemed to have been served—

- (a) in the case of service under paragraph (1)(a) on the day it was delivered;
- (b) in the case of service under paragraph (1)(b) the next working day; and
- (c) in the case of service under paragraph (1)(c) on the day it was sent.

3 February 2015

*Huw Lewis*  
Minister for Education and Skills, one of the  
Welsh Ministers

## SCHEDULE 1

Regulation 2

## REGULATIONS REVOKED

## PART 1

## Revocations

Regulations revoked	References	Extent of revocation
General Teaching Council for Wales (Functions) Regulations 2000	<a href="#">S.I. 2000/1979</a> (W. 140)	Fully
General Teaching Council for Wales (Disciplinary Functions) Regulations 2001	<a href="#">S.I. 2001/1424</a> (W. 99)	Fully
General Teaching Council for Wales (Functions) (Amendment) Regulations 2001	<a href="#">S.I. 2001/2496</a> (W. 200)	Fully
General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2003	<a href="#">S.I. 2003/503</a> (W. 71)	Fully
General Teaching Council for Wales (Functions) (Amendment) Regulations 2004	<a href="#">S.I. 2004/1741</a> (W. 180)	Fully
General Teaching Council for Wales (Functions) (Amendment) Regulation 2005	<a href="#">S.I. 2005/69</a> (W. 7)	Fully
General Teaching Council for Wales (Functions) (Amendment) Regulation 2006	<a href="#">S.I. 2006/1343</a> (W. 133)	Fully
Education (Supply of Information) (Wales) Regulations 2009	<a href="#">S.I. 2009/1350</a> (W. 126)	Fully
General Teaching Council for Wales (Functions) (Amendment) Regulation 2009	<a href="#">S.I. 2009/1353</a> (W. 129)	Fully
General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2009	<a href="#">S.I. 2009/1354</a> (W. 130)	Fully
General Teaching Council for Wales (Disciplinary	<a href="#">S.I. 2009/2161</a> (W. 184)	Fully

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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Regulations revoked	References	Extent of revocation
Functions) (Amendment No 2) Regulations 2009		
The Education (Specified Work and Registration) (Wales) Regulations 2010	<a href="#">S.I. 2010/2710 (W. 227)</a>	Fully
General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2011	<a href="#">S.I. 2011/2908 (W. 312)</a>	Fully
General Teaching Council for Wales (Functions) (Amendment) Regulation 2012	<a href="#">S.I. 2012/166 (W. 25)</a>	Fully
General Teaching Council for Wales (Disciplinary Functions) (Amendment) Regulations 2012	<a href="#">S.I. 2012/170 (W. 29)</a>	Fully

## PART 2

### Savings and general transitional provisions

#### Probation decisions

1. In the case of a person who on 1 September 1992 had commenced but not completed a period of probation under regulation 14 of, and Schedule 6 to, the 1989 Regulations, regulation 14 of, and Schedule 6 to, the 1989 Regulations are to continue to have effect until all their provisions have been complied with.

2. Teachers who—

- (a) have been determined to be unsuitable for further employment as qualified teachers pursuant to paragraph 2(c) of Schedule 2 to the 1959 Regulations; or
- (b) have received written notice under paragraph 5(2) of Schedule 6 to the 1982 Regulations,

are not to carry out specified work in regulation 16 without the consent of the Welsh Ministers.

#### Disciplinary proceedings

3. Notwithstanding the revocation of the General Teaching Council for Wales (Disciplinary Functions) Regulations 2001<sup>(26)</sup> (“the 2001 Regulations”)—

- (a) a person who is subject to disciplinary proceedings immediately before 1 April 2015 pursuant to the 2001 Regulations is to be treated as if they are subject to disciplinary proceedings in accordance with Part 5 of these Regulations; and
- (b) any disciplinary order made pursuant to the 2001 Regulations and in force immediately before 1 April 2015 is to continue to have effect as if it was made pursuant to Part 5 of these Regulations.

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(26) [S.I. 2001/1424 \(W. 99\)](#).

## SCHEDULE 2

Regulation 9

### MATTERS TO BE RECORDED IN THE REGISTER

#### PART 1

##### All registered persons

1. Where the person is registered, the date of first registration.
2. The category or categories of registration the person is registered in.
3. The registered person's full name.
4. The official reference number, if any, assigned to that registered person.
5. An indication of whether or not the registered person has paid any registration fee.
6. Whether the registered person is male or female.
7. The registered person's date of birth.
8. If known, any name by which the registered person was formerly known.
9. If known, the racial group to which registered person belongs.
10. If known, whether the registered person is disabled.
11. The registered person's home address, or other contact address, and if known the registered person's telephone number and electronic mail address.
12. The registered person's national insurance number.
- 13.—(1) If known, in relation to each of the schools or institutions where the registered person is or has been employed or otherwise engaged to provide relevant services—
  - (a) the name, address, telephone and electronic mail address of the schools or institutions at which the registered person is or has been employed;
  - (b) details of each of the types of school or institution at which the registered person is or has been employed or otherwise engaged to provide relevant services including whether the school was a maintained school or an independent school;
  - (c) the names of the local authorities who maintained or are maintaining the school or institution if applicable;
  - (d) whether the registered person was or is employed or otherwise engaged on a full-time or part-time basis;
  - (e) the posts held by the registered person; and
  - (f) the dates on which the registered person took up their current post.

(2) If known, where the registered person is not currently employed or otherwise engaged to provide relevant services, the date on which they were last so engaged, and the details specified in paragraphs (a) to (f) of sub-paragraph (1) in relation to their most recent post.
14. If known, where a registered person is engaged to provide relevant services through an agency—
  - (a) the name, address, telephone and electronic mail address of that agency;
  - (b) the date upon which the registered person first registered with the agency or institution at which the registered person is or has been engaged to provide relevant services; and

- (c) where the registered person is providing relevant services at a school or institution—
  - (i) the name, address, telephone number and electronic mail address of the school or institution at which the person is providing relevant services;
  - (ii) whether they were providing relevant services at a maintained school or an independent school;
  - (iii) the names of the local authorities who maintained or are maintaining the school or institution, if applicable;
  - (iv) whether the registered person was or is employed or otherwise engaged on a full-time or part-time basis;
  - (v) the posts held by the registered person; and
  - (vi) the date on which the registered person took up their current post.
- 15.** If known, if the registered person is—
  - (a) retired;
  - (b) on a career break;
  - (c) unemployed; or
  - (d) employed or otherwise engaged to provide relevant services.
- 16.** If known, where the registered person holds a degree or equivalent qualification—
  - (a) the date of its award;
  - (b) its title;
  - (c) the institution by which it was awarded;
  - (d) the class of the degree or qualification; and
  - (e) the subject.
- 17.** If known particulars of any other academic or professional qualification held by the registered person which the Council considers relevant to the provision of relevant services by a registered person.
- 18.** If known, such of the following information as the Council considers appropriate in relation to whether the registered person—
  - (a) has received training to enable them to provide relevant services through the medium of Welsh;
  - (b) is able to teach Welsh second language;
  - (c) has gained a Welsh language qualification and if so the type and level of that qualification;
  - (d) is a Welsh speaker;
  - (e) is employed or otherwise engaged to provide relevant services at a school which provides education through the medium of Welsh, and if so the language category used by the school governing body in its school prospectus to describe the school; and
  - (f) is fluent or first language speaker in a language other than English or Welsh, and if so, the language spoken.
- 19.** The terms of any disciplinary order, other than a reprimand, for the time being in force, made by the Council.
- 20.** The terms of any reprimand issued by the Council for a period of two years from the date the reprimand was issued.

**21.** The terms of any restriction or particulars of any prohibition for the time being in force in relation to the registered person as the result of a direction given under section 142 of the 2002 Act.

**22.** The terms of any prohibition order for the time being in force in relation to the registered person made by the Secretary of State under section 141B of the 2002 Act<sup>(27)</sup>.

**23.** The terms of any restriction or particulars of prohibition for the time being in force in relation to the registered person as a result of disciplinary action taken by the General Teaching Council for Scotland.

**24.** The terms of any restriction or particulars of prohibition for the time being in force in relation to the registered person as a result of any disciplinary action taken by the General Teaching Council for Northern Ireland.

**25.** The terms of any restriction or particulars of prohibition for the time being in force in relation to the registered person as a result of any disciplinary action taken by An Chomhairle Mhúinteoireachta or the Teaching Council.

## PART 2

### School teachers

**26.** The date on which the person qualified as a school teacher.

**27.** If known the date on which the school teacher took up their first post as a qualified teacher.

**28.** Where the school teacher has successfully completed a course for the initial training of teachers—

- (a) the name of the institution providing the course;
- (b) the title or description of the course;
- (c) the subject or subjects studied by the school teacher; and
- (d) the ages of pupils the course was designed to prepare the school teacher to teach.

**29.** Where the school teacher qualified as a school teacher other than by successfully completing a course for the initial training of teachers—

- (a) the type of training programme completed;
- (b) the name of the school or institution at which the school teacher training was undertaken; and
- (c) the date on which the training programme was completed.

**30.** If known—

- (a) particulars of any qualification held by the school teacher for teaching the visually or hearing impaired such as is referred to in regulation 11, 12 or 13 of the Education (Teachers' Qualifications and Health Standards) (Wales) Regulations 1999<sup>(28)</sup>; and
- (b) where the school teacher has been awarded the National Professional Qualification for Headship, an indication of that fact and the date of the award.

**31.** If known, where the school teacher—

- (a) is or was a post-threshold teacher an indication of that fact, the date from which the school teacher held that post and the name of the school at which the school teacher was employed when they were first appointed to that post;

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<sup>(27)</sup> Inserted by section 8(1) of the Education Act 2011 (c. 21).

<sup>(28)</sup> S.I. 1999/2817 (W. 18).

- (b) is an advanced skills teacher, an indication of that fact, the date on which the school teacher was certified as such, and the school at which the school teacher was employed when they were certified as an advanced skills teacher; and
  - (c) is a leading practitioner, an indication of that fact, the date from which the school teacher held that post, and the school at which the school teacher was employed when they first appointed to that post.
- 32.** Whether the school teacher is or was a deputy head teacher, head teacher or assistant head teacher, and if so—
- (a) the date on which they were first appointed to that post; and
  - (b) the name of the school at which they were employed when first appointed to that post.
- 33.** Where the person is employed as a school teacher in a maintained school an indication of whether that person is—
- (a) employed on the main range of pay; or
  - (b) employed on the upper range of pay.
- 34.—(1)** Where the school teacher has served an induction period or part of an induction period, whether in England or Wales—
- (a) the identity of the appropriate body;
  - (b) the date on which the school teacher started the induction period;
  - (c) where applicable, an indication that the school teacher successfully completed the induction period, and the date of its completion;
  - (d) where applicable, an indication that the school teacher has had the induction period extended, and the period of the extension;
  - (e) where applicable, an indication that the school teacher has completed only part of an induction period, and the period served; and
  - (f) where applicable, an indication that the person has failed to successfully complete the induction period.
- (2)** Where the person is a school teacher and has not served an induction period—
- (a) if the school teacher is exempt from the requirement to serve an induction period, the reason for the exemption; or
  - (b) if there was no requirement for the school teacher to serve an induction period at the relevant time, a statement of that fact.
- 35.** If applicable, an indication that the school teacher has failed a period of probation, and whether the Welsh Ministers have or the Secretary of State has consented to that teacher carrying out specified work under regulations made under—
- (a) section 133 of the 2002 Act; or
  - (b) section 14 of the 2014 Act.
- 36.** If applicable, an indication that the school teacher has retired under case C in paragraph 3 of Schedule 7 to the Teachers' Pensions Regulations 2010**(29)** (ill-health retirement).

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**(29)** S.I. 2010/990.

## SCHEDULE 3

Regulation 15

### REQUIREMENTS TO BE SATISFIED BY PERSONS WHO ARE NOT QUALIFIED TEACHERS IN ORDER TO CARRY OUT SPECIFIED WORK

#### Interpretation

1. In this Schedule—

“accredited institution” (*“sefydiad achrededig”*) means an institution accredited by the Higher Education Funding Council for Wales under regulation 7 of the 2004 Regulations or by the Training and Development Agency for Schools under regulation 11 of the Education (School Teachers’ Qualifications) (England) Regulations 2003<sup>(30)</sup>; and

“employment-based teacher training scheme” (*“cynllun hyfforddi athrawon ar sail cyflogaeth”*) means a scheme established by the Welsh Ministers under regulation 8 of the 2004 Regulations.

#### Existing teachers of nursery classes and at nursery schools who are not qualified teachers

2.—(1) This paragraph applies in the case of—

- (a) assistant teachers at a nursery school; or
- (b) teachers of a nursery class,

who were permitted to be employed as teachers by paragraph 4 of Schedule 4 to the 1982 Regulations and who were so employed immediately before 1 September 1989.

(2) Such persons may carry out work specified in regulation 17 in a school in the same capacity as they were employed before 1 September 1989.

#### Persons with special qualifications or special experience

3.—(1) This paragraph applies in the case of persons who are not qualified teachers appointed, or proposed to be appointed, to carry out work specified in regulation 17 in respect of any art or skill or in any subject or group of subjects, where special qualifications or special experience or both are required in order to do so.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 17 in a school if at the time of their appointment—

- (a) the local authority (in the case of a school which has no delegated budget or in the case of a pupil referral unit) the governing body acting with the consent of the local authority (in the case of a school which has a delegated budget), or the governing body (in the case of a special school not maintained by a local authority), as the case may be, is satisfied as to their qualifications or experience or both; and
- (b) no suitable qualified teacher or teacher on an employment-based teacher training scheme is available for such appointment; or
- (c) in respect of work described in paragraph 6(2) of this Schedule, no suitable person who holds qualifications required under regulation 3 of the 2002 Regulations is available for such appointment.

(3) Persons appointed with special qualifications or experience described in sub-paragraph (1) carrying out work specified in regulation 17 as permitted by sub-paragraph (2) may do so, subject to sub-paragraph (4)—

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<sup>(30)</sup> S.I. 2003/1662 as amended by the Education Act 2005 (c. 18) and by S.I. 2007/2782, S.I. 2009/3156, S.I. 2010/1172 and S.I. 2012/431.

- (a) only for such period of time as no suitable qualified teacher or teacher on an employment-based teacher training scheme is available for appointment; or
  - (b) in respect of work described in paragraph 6(2) of this Schedule, only for such periods of time as no suitable person who holds qualifications required under regulation 3 of the 2002 Regulations is available for such appointment.
- (4) Sub-paragraph (3) does not apply in the case of such persons appointed before 8 April 1982 where—
- (a) the appointment was for a specified period, if and so long as that period has not expired; or
  - (b) the appointment was for an unspecified period, if it was not otherwise expressed to be temporary only.

### **Overseas Trained Teachers**

4.—(1) This paragraph applies in the case of persons who have successfully completed a programme of professional training for teachers in any country outside the United Kingdom, which programme is recognised as such by the competent authority in that country.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 17 in a school (other than a pupil referral unit) for a period of up to two years commencing on the day on which they first carry out work specified in regulation 17 in a school.

### **Trainees on initial teacher training courses**

5.—(1) This paragraph applies in the case of persons who are undertaking a course of initial training for teachers in schools at an accredited institution in Wales or England.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 17 in a school (other than a pupil referral unit) under the supervision of a qualified teacher during any period in which they are undertaking practical teaching experience for the purposes of that course.

### **Qualified further education teachers teaching vocational courses within the local curriculum**

6.—(1) This paragraph applies in the case of persons who hold qualifications required under regulation 3 of the 2002 Regulations.

(2) Persons mentioned in sub-paragraph (1) may carry out work specified in regulation 17 in a school to the extent that the work comprises the delivery of vocational courses of study forming a part or the whole of a local curriculum that has been formed by a local authority pursuant to section 116A of the 2002 Act 2002(31), or by the Welsh Ministers pursuant to section 33A of the Learning and Skills Act 2000.

### **Employment-based teacher training scheme**

7.—(1) This paragraph applies in the case of persons who are undertaking training for the purposes of an employment-based teacher training scheme.

(2) Such persons may carry out work specified in regulation 17 in a school until they successfully complete or cease to undertake that training.

### **Other persons who may carry out specified work**

8.—(1) This paragraph applies in the case of persons who are not qualified teachers and who are not mentioned in paragraphs 2 to 7 of this Schedule.

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(31) As inserted by section 4 of the Learning and Skills (Wales) Measure 2009 (2009 nawm 1).

(2) Such persons may carry out work specified in regulation 17 in a school only if the following conditions are satisfied—

- (a) they carry out work specified in regulation 17 in order to assist or support the work of qualified teachers or nominated teachers in the school;
- (b) they are subject to the direction and supervision of such qualified teachers or nominated teachers in accordance with arrangements made by the head teacher of the school; and
- (c) the head teacher is satisfied that they have the skills, expertise and experience required to carry out work specified in regulation 17.

(3) Head teachers may, if they consider the nomination appropriate in the circumstances, nominate persons who are mentioned in paragraphs 3, 4, 5, 6 or 7 of this Schedule as nominated teachers for the purpose of sub-paragraph (2).

(4) In determining whether the persons mentioned in sub-paragraph (1) have the skills, expertise and experience required to carry out work specified in regulation 17 in a school, head teachers may have regard to—

- (a) such standards for higher-level teaching assistants, or guidance concerning school support staff, as may be published from time to time by the Welsh Ministers; and
- (b) such guidance as to contractual matters relating to school support staff as may be published from time to time by any local authority or other employer.

## SCHEDULE 4

Regulation 44

### RECORDS MAINTAINED BY THE COUNCIL

#### PART 1

##### Interpretation

1. For the purposes of this Schedule a reference to a registered person in Schedule 2 is to be taken to be a reference to one of the persons set out in Part 2 of this Schedule.

#### PART 2

##### Persons the Council is required to maintain records for

2. Persons whose names have been removed from the Register other than those whose names were removed at their own request or who have died.

3. Persons who are ineligible for registration by virtue of section 10(3) of the 2014 Act.

4. Qualified teachers who are not registered teachers.

5. Persons who are not registered teachers and who have started a course for the initial training of teachers, whether or not they have completed such course.

6. Persons who are not qualified teachers who are employed as teachers in schools maintained by a local authority.

7. Persons who are not registered teachers who are preparing for, or who have obtained, the National Professional Qualification for Headship.

**8.—(1)** Persons not falling within any of the above mentioned categories and who are not registered persons, who—

- (a) have had an official reference number assigned to them; and
- (b) are, or have at any time been, employed as a teacher at a school or other educational institution.

(2) Persons who are not registered in any category of registration but are eligible to be so registered and about whom the Council consider it appropriate to record the information set out in Part 2.

## PART 3

### Information to be contained in the records

**9.** The information set out in paragraphs 3 to 25 of Part 1 of Schedule 2.

**10.** Where the person has been registered previously but has since been removed from the Register—

- (a) the category or categories of registration they were previously registered in;
- (b) the date of their first registration; and
- (c) the date they were last removed from the Register.

**11.** The information set out in Part 2 of Schedule 2.

**12.** Where the person is ineligible for registration pursuant to section 10 and regulations made under sections 12 or 13 of the 2014 Act, particulars of the direction, disciplinary order or other prohibition by virtue of which the person is ineligible for registration.

**13.** Where a person is ineligible for registration pursuant to section 10 of the 2014 Act because the Council are not satisfied as to the person's suitability to be registered, particulars of the grounds on which the decision to refuse the application was taken.

**14.** Where the person's name has been removed from the Register, particulars of the grounds on which the person's name was removed from the Register.

**15.** If the person has been barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006), a statement of that fact.

**16.** If the person has been barred from regulated activity relating to vulnerable adults (within the meaning of section 3(3) of the Safeguarding Vulnerable Groups Act 2006), a statement of that fact.

## SCHEDULE 5

Regulation 45

### INFORMATION TO BE SUPPLIED TO THE COUNCIL

## PART 1

### Information to be supplied by a relevant employer

**1.** A statement of reasons for ceasing to use the person's services.

2. Employer's records relating to the cessation of the use of the person's services or any contemplated cessation, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.

3. Employer's records relating to the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use that person's services, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the employer.

4. Employer's letters, warnings or notices issued to a person in relation to the cessation of the use of that person's services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use that person's services, and the person's replies or representations in response.

5. Any other statements, representations and evidence submitted by a person to the employer in relation to the cessation of the use that person's services or contemplated cessation, or the conduct which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use that person's services.

6. Letter advising of a person's intention to cease to provide services.

7. Any other document or information which the employer considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by an Investigating Committee or a Fitness to Practice Committee against a registered person.

## PART 2

### Information to be supplied by an agent

8. A statement of reasons for terminating the arrangements.

9. Any records relating to the termination of the arrangements or any contemplated termination, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.

10. Any records relating to the conduct which eventually led to the termination of arrangements or might, but for the person having terminated arrangements, have led the agent to terminate them, or might, but for the person having ceased to make themselves available for work, have led the agent to refrain from making new arrangements, including notes and minutes of meetings, interview notes, and evidence supplied to or obtained by the agent.

11. Agent's letters, warnings or notices issued to a person in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the person having terminated arrangements, have led the agent to terminate them, or might, but for the person having ceased to make themselves available for work, have led the agent to refrain from making new arrangements, and the person's replies or representations in response.

12. Any other statements, representations and evidence submitted by a person to the agent in relation to the termination of arrangements, or the conduct which eventually led to the termination of arrangements or might, but for the person having terminated arrangements, have led the agent to terminate them, or might, but for the person having ceased to make themselves available for work, have led the agent to refrain from making new arrangements.

13. The person's letter terminating arrangements or ceasing to make themselves available for work.

14. Any other document or information which the agent considers is relevant to any investigation which may be carried out by an Investigating Committee or any proceedings which may be taken by an Investigating Committee or a Fitness to Practice Committee against a registered person.

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## EXPLANATORY NOTE

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

The General Teaching Council for Wales was re-named the Education Workforce Council (“the Council”) by section 2 of the Education (Wales) Act 2014 (“the 2014 Act”).

Part 1 of these Regulations sets out the provisions in relation to interpretation, the revocation of Regulations and the savings and transitional provisions.

Part 2 of these Regulations contains the provisions in relation to registration of the education workforce. Section 9 of the 2014 Act requires the Council to establish and maintain a register of the categories of person set out in the table in paragraph 1 of Schedule 2. Accordingly these Regulations make provision as to the form and manner in which the register is to be kept, and other matters relating to registration.

These Regulations revoke the Education (Specified Work and Registration) (Wales) Regulations 2010 (“the 2010 Regulations”). Part 2 of these Regulations re-make the provisions of the 2010 Regulations with some minor changes.

Part 3 of these Regulations specifies the work that may be carried out in schools by qualified teachers and persons who satisfy specified requirements. The requirements to be satisfied are specified in Schedule 3.

These Regulations also provide for qualified teachers carrying out specified work in schools to be registered with the Council (regulation 18).

Part 4 of these Regulations provides that unless a person meets any of the conditions prescribed in these Regulations they may not provide further education in or for a further education institution unless they are registered with the Council.

Part 5 of these Regulations makes provision in relation to the disciplinary functions of the Council. Sections 26 to 32 of the 2014 Act confer disciplinary functions on the Council in relation to persons registered in the register (“registered persons”).

Regulation 20 provides for the establishment of one or more Investigating Committees, which will investigate, and determine whether to pursue proceedings against, registered persons where it is alleged that the teacher is guilty of unacceptable professional conduct or serious professional incompetence, or has been convicted (at any time) of a relevant offence, or it appears to them that a registered person may be so guilty or has been so convicted. Regulation 21 makes further provision in relation to the delegation of those committees’ functions to employees of the Council.

Regulation 22 provides for the establishment of Fitness to Practice Committees, which will hear disciplinary proceedings concerning unacceptable professional conduct and relevant offences and have power to make disciplinary orders (prohibition orders, suspension orders, conditional registration orders or reprimands); and hear applications in relation to those orders with the exception of reprimands.

Section 33 of the 2014 Act allows the Welsh Ministers to make provision in relation to the maintenance of records by the Council. Accordingly Part 6 of these Regulations requires the Council to maintain records for the persons set out in Part 2 of Schedule 4 to these Regulations. The information that must be contained in those records is set out in Part 3 of Schedule 4 to these Regulations and is similar to the information that is recorded in the register established and maintained by the Council under section 9 of the 2014 Act.

Part 7 requires the employers of teachers registered with the Council and supply agencies to report cases of misconduct and incompetence to the Council. The information that must be supplied is set out in Schedule 5 to these Regulations.

Part 8 requires the Council to supply, on request, to registered persons and other persons about whom records are maintained, copies of the information held about them. Part 8 also requires the Council to supply information to employers and other bodies upon request.

Part 9 contains a provision in relation to service of notices pursuant to these Regulations.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.