



Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

PART 6

SOCIAL CARE WORKERS: FITNESS TO PRACTISE

CHAPTER 2

PRELIMINARY PROCEDURES

Investigation

125 Duty to investigate

- (1) SCW must investigate, or make arrangements for the investigation of, a matter referred under section 119 in respect of a registered person's fitness to practise.
- (2) The person conducting an investigation under this section may, at any stage during the investigation, refer the matter to an interim orders panel.
- (3) SCW must by rules make provision about the arrangements for investigations under this section.
- (4) Rules made under subsection (3) may, in particular, make provision for—
 - (a) the registered person to make representations to the person conducting the investigation;
 - (b) investigations to be carried out by a member of SCW's staff;
 - (c) the appointment of one or more individuals for the purpose of conducting an investigation;
 - (d) the appointment of persons to provide assistance in relation to an investigation.

Status: This is the original version (as it was originally enacted).

(5) But rules made under subsection (3) may not provide for an investigation to be carried out by—

- (a) a person who is a member of—
 - (i) SCW,
 - (ii) the Health and Care Professions Council,
 - (iii) the Scottish Social Services Council, or
 - (iv) the Northern Ireland Social Care Council;
- (b) a person who is a member of a fitness to practise panel;
- (c) a person who is a member of an interim orders panel;
- (d) a prescribed person.

126 Powers following an investigation

- (1) This section applies where the investigation of a matter relating to a registered person's fitness to practise has been concluded.
- (2) SCW must refer the matter to a fitness to practise panel if it is satisfied that—
 - (a) there is a realistic prospect of the panel finding that the registered person's fitness to practise is impaired, and
 - (b) it is in the public interest to refer the matter.
- (3) Where the matter is not referred to a fitness to practise panel, SCW may—
 - (a) decide to take no further action in respect of the registered person;
 - (b) give advice to the registered person, or to any other person involved in the investigation, in respect of any matter related to the investigation;
 - (c) issue a warning to the registered person in respect of future conduct or performance;
 - (d) agree with the registered person that he or she will comply with such undertakings as SCW thinks appropriate;
 - (e) grant an application under section 92 by the registered person for his or her entry in the register to be removed by agreement.

127 Notice: referral or disposal

- (1) SCW must give notice to the persons listed in subsection (2) of—
 - (a) the referral of a matter to an interim orders panel under section 125(2);
 - (b) the referral of a matter to a fitness to practise panel under section 126(2);
 - (c) the way in which the matter has been disposed of under section 126(3).
- (2) The persons are—
 - (a) the registered person to whom the matter relates, and
 - (b) where the matter was the subject of an allegation mentioned in section 118(1) (a), the person who made the allegation.
- (3) SCW may give notice to any other person of the referral or disposal of a matter under section 126 if satisfied that it is in the public interest to do so.
- (4) A notice under this section must give the reasons for the referral.

128 Warnings

- (1) Where SCW is proposing to issue a warning to a registered person, SCW must—
 - (a) notify the registered person of its intention, and
 - (b) notify that person of the right to request an oral hearing for the purpose of determining whether or not to give a warning.
- (2) SCW must by rules make provision about—
 - (a) the period within which a request for an oral hearing may be made;
 - (b) the arrangements and procedure for an oral hearing.
- (3) SCW must grant a request for an oral hearing if the request is made in accordance with the requirements of rules made under subsection (2).

129 Undertakings

- (1) SCW must by rules make provision about the agreement of undertakings under section 126(3)(d).
- (2) The rules may, in particular, make provision about—
 - (a) the procedure to be followed for the agreement of undertakings;
 - (b) the procedure to be followed in the event of a breach of an undertaking;
 - (c) the consequences of a breach of an undertaking;
 - (d) periodic review of a requirement to comply with an undertaking.

130 Mediation

- (1) The Welsh Ministers may by regulations provide, or authorise SCW by rules to provide, for arrangements for mediation to be undertaken with any registered person in respect of whom a matter is referred for investigation under section 125.
- (2) The regulations may make provision about, or authorise SCW by rules to make provision about—
 - (a) the circumstances in which mediation may be undertaken, and
 - (b) the arrangements for undertaking mediation.