



# Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

## PART 6

### SOCIAL CARE WORKERS: FITNESS TO PRACTISE

#### CHAPTER 5

##### REVIEW PROCEEDINGS

#### **150 Review proceedings: interpretation and general**

- (1) In this Chapter a reference to a registered person is to the registered person whose fitness to practise is the subject of a review under section 151.
- (2) A fitness to practise panel may make an order for removal of a registered person's entry from the register by agreement under section 152(2), 153(2), 154(2) or 155(5) only if the person has agreed to a statement of facts relating to the matter.
- (3) If such an order is made under any of those provisions, SCW—
  - (a) may publish the statement of agreed facts in such manner as it thinks appropriate, and
  - (b) may disclose the statement to any person if SCW thinks it is in the public interest to do so.
- (4) Where a fitness to practise panel agrees or confirms undertakings, or agrees any variation of undertakings, under section 152(5) or (6), 153(4), 154(4) or 155(7), SCW must disclose details of the undertakings to any person—
  - (a) by whom, to the knowledge of SCW, the registered person is employed as a social care worker,

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- (b) who, to the knowledge of SCW, has an arrangement with the registered person for the registered person to provide services to a third party in his or her capacity as a social care worker,
  - (c) from whom, to the knowledge of SCW, the registered person is seeking such employment or such an arrangement, and
  - (d) as may be prescribed.
- (5) But SCW may not disclose to any person details of any undertaking which relates solely to the registered person's physical or mental health.

**Commencement Information**

**II** S. 150 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

**151 Review proceedings**

- (1) Subsection (2) applies where undertakings agreed between a fitness to practise panel and a registered person under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7) have effect.
- (2) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in those undertakings.
- (3) Subsection (4) applies where a conditional registration order made (or confirmed or varied) under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c) has effect in relation to a registered person.
- (4) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in the conditional registration order.
- (5) Subsection (6) applies where a suspension order made (or confirmed or varied) under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7) has effect in relation to a registered person.
- (6) A fitness to practise panel must carry out a review of the registered person's fitness to practise in accordance with any requirements as to review contained in the suspension order.
- (7) A fitness to practise panel must also carry out a review of a registered person's fitness to practise in a case referred to it by SCW under section 133.

**Commencement Information**

**I2** S. 151 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

**152 Review of undertakings: disposals by fitness to practise panel**

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(2) or (7) of the fitness to practise of a registered person who has agreed undertakings.

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- (2) If the registered person has applied under section 92 for removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
  - (a) must revoke the undertakings, and
  - (b) may do either or both of the following—
    - (i) give advice to the person on any matter related to the case;
    - (ii) give the person a warning in respect of future conduct or performance.
- (4) If the registered person admits that his or her fitness to practise is impaired, or if the panel determines that the person's fitness to practise is impaired, the panel may make a disposal specified in subsection (5) or (6).
- (5) The panel may agree with the registered person that the undertakings remain in effect with no variations.
- (6) The panel may agree with the registered person that either or both of the following variations may be made to any undertaking—
  - (a) a variation of its terms;
  - (b) an extension or reduction of the period for which it is to have effect.
- (7) Under subsection (6)(b) an extension of the period for which any undertaking is to have effect may not be for more than 3 years.
- (8) If the panel determines that the registered person's fitness to practise is impaired, the panel may revoke the undertakings and make a decision to—
  - (a) take no further action in respect of the person,
  - (b) give a warning to the person in respect of future conduct or performance,
  - (c) make a conditional registration order,
  - (d) make a suspension order, or
  - (e) subject to subsection (9), make a removal order.
- (9) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.

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**Commencement Information**

**I3** S. 152 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

### **153 Review of conditional registration orders: disposals by fitness to practise panel**

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(4) or (7) of the fitness to practise of a registered person who is subject to a conditional registration order.
- (2) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.

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- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
  - (a) must revoke the conditional registration order, and
  - (b) may do either or both of the following—
    - (i) give advice to the person on any matter related to the case;
    - (ii) give the person a warning in respect of future conduct or performance.
- (4) The panel may agree undertakings with the registered person—
  - (a) if the person admits that his or her fitness to practise is impaired, or
  - (b) if the panel determines that the person's fitness to practise is impaired.
- (5) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsections (6), (7) or (9).
- (6) The panel may confirm the conditional registration order with no variations.
- (7) The panel may do any or all of the following in respect of the conditional registration order—
  - (a) revoke any condition;
  - (b) vary any condition;
  - (c) extend or reduce the period for which the order is to have effect.
- (8) Under subsection (7)(c) an extension of the period for which the order is to have effect may not be for more than 3 years.
- (9) The panel may revoke the conditional registration order and make a decision to—
  - (a) take no further action in respect of the registered person,
  - (b) give a warning to the person in respect of future conduct or performance,
  - (c) make a suspension order, or
  - (d) subject to subsection (10), make a removal order.
- (10) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.

#### **Commencement Information**

**I4** S. 153 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

### **154 Review of suspension orders: disposals by fitness to practise panel**

- (1) This section specifies the possible disposals which may be made by a fitness to practise panel which has completed a review under section 151(6) or (7) of the fitness to practise of a registered person who is subject to a suspension order.
- (2) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (3) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—

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- (a) must revoke the suspension order, and
- (b) may do either or both of the following—
  - (i) give advice to the person on any matter related to the case;
  - (ii) give the person a warning in respect of future conduct or performance.
- (4) The panel may agree undertakings with the registered person—
  - (a) if the person admits that his or her fitness to practise is impaired, or
  - (b) if the panel determines that the person's fitness to practise is impaired.
- (5) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsections (6), (7), (8) or (10).
- (6) The panel may confirm the suspension order with no variations.
- (7) The panel may—
  - (a) extend the period for which the suspension order is to have effect for a period of no more than 12 months, or
  - (b) reduce the period for which the suspension order is to have effect.
- (8) The panel may revoke the suspension order and make a decision to—
  - (a) take no further action in respect of the registered person,
  - (b) give a warning to the person in respect of future conduct or performance,
  - (c) make a conditional registration order, or
  - (d) make a removal order.
- (9) The panel may not make a removal order in a case where the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and no other ground in section 117.
- (10) If the conditions in subsection (11) are met, the panel may make an indefinite suspension order, which is an order suspending the registered person's registration in the register for an indefinite period.
- (11) The conditions are—
  - (a) the panel has determined that the registered person's fitness to practise is impaired on the grounds of adverse physical or mental health, and on no other ground specified in section 117,
  - (b) at the date of the panel's decision, the person has been suspended for at least 2 years, and
  - (c) the suspension order to which the person is subject is due to expire within 2 months of the date of the panel's decision.

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**Commencement Information**

**I5** S. 154 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

## **155 Review of indefinite suspension orders**

- (1) This section applies where a fitness to practise panel has made an indefinite suspension order.

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- (2) A fitness to practise panel must review the indefinite suspension order on the application of the registered person.
- (3) The registered person may not make an application for review—
  - (a) before the expiry of the period of 2 years beginning with the date on which the order was made, or
  - (b) within the period of 2 years beginning with the date of a previous application for review.
- (4) The following subsections specify the possible disposals which may be made by a fitness to practise panel which has completed a review under subsection (2).
- (5) If the registered person has applied under section 92 for the removal of the entry relating to the person from the register by agreement, the panel may make an order for the removal of that entry.
- (6) If the panel determines that the registered person's fitness to practise is no longer impaired, the panel—
  - (a) must revoke the indefinite suspension order, and
  - (b) may do either or both of the following—
    - (i) give advice to the person on any matter related to the case;
    - (ii) give the person a warning in respect of future conduct or performance.
- (7) The panel may agree undertakings with the registered person—
  - (a) if the person admits that his or her fitness to practise is impaired, or
  - (b) if the panel determines that the person's fitness to practise is impaired.
- (8) If the panel determines that the registered person's fitness to practise is impaired (and undertakings have not been agreed), the panel may dispose of the case as described in subsection (9) or (10).
- (9) The panel may confirm the indefinite suspension order.
- (10) The panel may revoke the indefinite suspension order and make a decision to—
  - (a) take no further action in respect of the registered person,
  - (b) give a warning to the person in respect of future conduct or performance, or
  - (c) make a conditional registration order.

**Commencement Information**

**I6** S. 155 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

**156 Reviews: further provision about conditional registration and suspension orders**

- (1) Subsections (2) and (3) apply to a conditional registration order made under section 152(8)(c), 154(8)(c) or 155(10)(c).
- (2) The order must specify—
  - (a) the conditions with which the person to whom the order relates must comply, and
  - (b) the period for which the order is to have effect, which must not exceed 3 years; but see section 153 regarding extensions of that period on review.

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- (3) The order may specify—
  - (a) that it must be reviewed in accordance with arrangements specified in the order;
  - (b) different conditions that have effect for different periods; but this is subject to the limit mentioned in subsection (2)(b).
- (4) Subsections (5) and (6) apply to a suspension order made under section 152(8)(d) or 153(9)(c).
- (5) The order must specify the period for which it is to have effect, which must not exceed 3 years; but see section 154 regarding extensions of that period on review.
- (6) The order may specify that it must be reviewed in accordance with arrangements specified in the order.

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**Commencement Information**

**17** S. 156 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

## **157 Decisions in review cases: notification and taking effect**

- (1) Where a fitness to practise panel disposes of a review case in any of the ways specified in sections 152 to 155, SCW must give notice to the registered person of the decision as to the disposal of the case.
- (2) In any case where the disposal follows a finding as to impairment of fitness to practise, the notice given to the registered person must include—
  - (a) a statement of facts found by the panel, and
  - (b) the panel's reasons for its finding.
- (3) A decision to dispose of a review case in any of the ways specified in sections 152 to 155, except those disposals specified in subsection (4), takes effect immediately.
- (4) Subsection (5) applies where a fitness to practise panel disposes of a review case in any of the ways specified in—
  - (a) section 152(8),
  - (b) section 153(6), (7) or (9),
  - (c) section 154(6), (7), (8) or (10), or
  - (d) section 155(9) or (10).
- (5) SCW must also give notice to the registered person of the right of appeal under section 158 against the decision.
- (6) A decision to dispose of a review case in any of the ways specified in subsection (4) does not take effect until—
  - (a) the end of the period of 28 days beginning with the day on which the registered person was notified of the decision, or
  - (b) if an appeal is made within that period, the appeal is withdrawn, discontinued or dismissed.
- (7) Subsection (8) applies where—

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- (a) a registered person is subject to a conditional registration order under section 138(7), 152(8)(c), 153(6) or (7), 154(8)(c) or 155(10)(c), and
  - (b) a fitness to practise panel disposes of a review case in any of the ways specified in section 153(6), (7) or (9)(c) or (d) (“the decision”).
- (8) The registered person's conditional registration under the order as mentioned in subsection (7)(a) continues to have effect until—
- (a) the decision takes effect in accordance with subsection (6), or
  - (b) an appeal against the decision is upheld,
- despite the fact that, were it not for this subsection, the conditional registration would cease to have effect before that date.
- (9) Where a registered person is subject to a conditional registration order as mentioned in subsection (7)(a) and a fitness to practise panel disposes of a review case by extending the period of the conditional registration order under section 153(7)(c) that extended period of conditional registration is to be treated as having started on the date on which the previous period of conditional registration would, were it not for subsection (8), have ceased to have had effect.
- (10) Subsection (11) applies where—
- (a) a registered person is subject to a suspension order under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7), or an indefinite suspension order under section 154(10) or 155(9), and
  - (b) a fitness to practise panel disposes of a review case in any of the ways specified in section 154(6), (7), (8)(c) or (d) or (10) or 155(10)(c) (“the decision”).
- (11) The registered person's suspension under the order as mentioned in subsection (10)(a) continues to have effect until—
- (a) the decision takes effect in accordance with subsection (6), or
  - (b) an appeal against the decision is upheld,
- despite the fact that, were it not for this subsection, the suspension would cease to have effect before that date.
- (12) Where a registered person is subject to a suspension order under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7) and a fitness to practise panel disposes of a review case by extending the period of the suspension order under section 154(7)(a) that extended period of suspension is to be treated as having started on the date on which the previous period of suspension would, were it not for subsection (11), have ceased to have had effect.

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**Commencement Information**

**18** S. 157 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)



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