

SCHEDULE 2

Fitness to practise proceedings

PART 3

Fitness to practise hearing

Commencement of hearing procedure

10.—(1) This sub-paragraph applies where a case has not been disposed of under paragraph 9(3) and the case examiners determine that—

- (a) there is a realistic prospect that adjudicators would determine that the social worker's fitness to practise is impaired, and
- (b) it would be in the public interest for the case to proceed to a fitness to practise hearing.

(2) Where sub-paragraph (1) applies—

- (a) the case examiners must inform the regulator, and
- (b) the regulator must appoint two or more adjudicators (who may be the adjudicators appointed under paragraph 8(1)(b), if any) to conduct a fitness to practise hearing in accordance with this Part.

(3) Any step in the fitness to practise hearing must be taken within such period as is specified in rules made under regulation 25(5)(b), or such longer period as the adjudicators may determine.

(4) The adjudicators must—

- (a) notify the social worker, and where relevant the complainant, that they will conduct a fitness to practise hearing to determine whether the social worker's fitness to practise is impaired,
- (b) invite the social worker to make written submissions, and
- (c) inform the social worker that they may—
 - (i) attend the hearing, and be represented,
 - (ii) make oral submissions,
 - (iii) call witnesses.

(5) At any time before the adjudicators make a determination under paragraph 12(1) or (3) they may require the investigators to obtain, and supply to them, further information or submissions relevant to the fitness to practise hearing, provided that paragraph 5(2) and (3) applies to the provision of information under this sub-paragraph.

Interim orders

11.—(1) The adjudicators may make any interim order they consider is necessary for the protection of the public or in the best interests of the social worker, where they—

- (a) have not yet made a determination under paragraph 12(1) or (3), or
- (b) are making a final order under paragraph 12(3)(b).

(2) The adjudicators may not make an interim order under sub-paragraph (1)(a) unless they have first informed the social worker of the proposed order and given them the opportunity—

- (a) to make written submissions, or
- (b) to attend before the adjudicators and be represented, in order to make oral submissions.

- (3) An interim order ceases to have effect before the expiry of the period specified in the order, or such period as is substituted by the court pursuant to paragraph 14(3)(a) (as the case may be)—
- (a) in the case of an interim order referred to in sub-paragraph (1)(a), when the adjudicators determine that the social worker’s fitness to practise is not impaired,
 - (b) in the case of an interim order referred to in sub-paragraph (1)(b)—
 - (i) where there is no appeal against the final order, when the period for appealing expires, or
 - (ii) where there is an appeal against the final order, when the appeal is withdrawn or otherwise finally disposed of.
- (4) Where they make an interim order under sub-paragraph (1) the adjudicators must comply with paragraph 8(4).

Determination by adjudicators

12.—(1) Where, following a fitness to practise hearing, the adjudicators determine that the social worker’s fitness to practise is not impaired the adjudicators may—

- (a) give a warning to the social worker regarding their future conduct or performance,
- (b) give advice to the social worker on any matter related to the fitness to practise proceedings, or
- (c) take no further action.

(2) Where sub-paragraph (1) applies, the adjudicators must inform the following of their determination and the reasons for it—

- (a) the regulator,
- (b) the social worker, and
- (c) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant.

(3) Where, following the fitness to practise hearing, the adjudicators determine that the social worker’s fitness to practise is impaired, the adjudicators may—

- (a) give advice to the social worker on any matter related to the fitness to practise proceedings,
- (b) make a final order,
- (c) take no further action.

(4) Where the adjudicators make a final order they must—

- (a) inform the following of the terms of the order and the reasons for it—
 - (i) the regulator,
 - (ii) the social worker,
 - (iii) any person by whom the social worker is employed, or with whom they have an arrangement, to provide services as a social worker or in relation to social work (where known),
 - (iv) any regulatory body with which the social worker is registered (where known), and
 - (v) where the fitness to practise proceedings were instigated following a complaint against the social worker, the complainant,
- (b) notify the social worker of their right—
 - (i) to request a review under paragraph 15, and
 - (ii) to appeal to the High Court under Part 5.

Final orders

- 13.—(1) A final order may—
- (a) require the removal of the social worker’s entry from the register (a “removal order”),
 - (b) suspend the social worker from practising for such period as is specified in the order (a “suspension order”),
 - (c) impose a restriction or condition with which the social worker must comply for such period as is specified in the order (a “conditions of practice order”),
 - (d) give a warning to the social worker regarding their future conduct or performance (a “warning order”).
- (2) A removal order may only be made in a case where—
- (a) the adjudicators found the social worker unfit to practise on one of the grounds set out in regulation 25(2)(a), (c), (d), (f), or (g), or
 - (b) the adjudicators found the social worker unfit to practise on one of the grounds set out in regulation 25(2)(b), (e) or (h) and the social worker was suspended from practice, or subject to a conditions of practice order, for a continuous period of two years immediately preceding the making of the removal order.
- (3) A suspension order and a conditions of practice order have effect for such period, not exceeding three years, as is specified in the order.