

REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 –Social Care Workers: Fitness to Practise

Chapter 3: Sections 134 – 142 - Disposal of fitness to practise cases

192. Fitness to practise panels consider allegations that a registered person's fitness to practise is impaired. This Chapter sets out the various powers the panels have to dispose of cases.
193. Fitness to practise panels must determine whether a person's fitness to practise is impaired on any of the grounds listed in section 117. The panel has the power to impose sanctions following a finding of impairment (see section 138). The main purpose of a sanction is not punitive but to protect the public, although it may also have a punitive effect. Where a panel's finding is that a registered person's fitness to practise is not impaired, the panel has a range of options as to how to dispose of the case; these including warning the registered person about their behaviour or giving advice about changing their conduct in future (see sections 135 and 137). SCW can publish guidance which fitness to practise panels will be required to take into account when imposing sanctions or disposing of cases (see section 162). The guidance could set out for example, the factors the panel should take into account when considering whether to issue a warning.
194. Any conditions imposed on a registered person by a fitness to practise panel can only be imposed for a period of 3 years in the first instance and a registered person's registration can only be suspended by a suspension order for 12 months in the first instance. The review process for reviewing conditions and suspensions is set out in Chapter 5 and is explained below. Conditions and suspensions can be extended beyond time limits imposed by a fitness to practise panel on review. A social worker could, for example, be suspended from practising as a social worker for 12 months by a fitness to practise panel; in making the relevant suspension order the panel could specify that a review of the suspension order would be conducted by another fitness to practise panel a month before the expiry of the order. If the panel conducting the review considered that the person's fitness to practise remained impaired, it could use section 154 to extend the suspension order for another year. It could not, however use section 154 to extend the suspension for a period exceeding 12 months. In the same way it could not extend a conditional registration order for a further period exceeding 3 years. Extensions cannot exceed the time limits imposed in section 139.
195. There are however circumstances when suspension orders can be extended for longer than 12 months. Registered persons whose fitness to practise is impaired on health grounds can be suspended indefinitely following a two year period of suspension. See explanatory notes for Chapter 5 for further explanation.

196. Registered persons can appeal any sanction imposed by a fitness to practise panel following a finding of impairment to the First-Tier Tribunal (section 158). Section 140 gives fitness to practise panels the power to issue immediate conditional registration and suspension orders pending the outcome of any appeal to the Tribunal. Whilst the purpose of such orders is the same as interim orders, the ways in which they operate are different. Immediate orders are not reviewed periodically like interim orders and their duration is linked to the appeal process. (See the explanatory note for Chapter 4 of this Part for further details about interim orders.) Therefore an immediate suspension order might be imposed if a fitness to practise panel has ordered that an entry relating to a registered person be removed from the register. This removal will not come into effect until the period for appealing has passed or an appeal is concluded; therefore the immediate order would be a measure taken to protect the public in the intervening period.