



Regulation and Inspection of Social Care (Wales) Act 2016

2016 anaw 2

PART 6

SOCIAL CARE WORKERS: FITNESS TO PRACTISE

CHAPTER 2

PRELIMINARY PROCEDURES

Review

131 Review of decisions by SCW

- (1) SCW must review a decision to which subsection (2) applies if—
 - (a) it thinks that the decision may be materially flawed, or
 - (b) it thinks that a different decision may have been made on the basis of information that was not available when the decision was made.
- (2) This subsection applies to the following decisions—
 - (a) a decision not to refer a matter to a fitness to practise panel under section 121 or 126(2),
 - (b) a decision not to refer a matter for investigation under section 125,
 - (c) a decision to dispose of a case after investigation under section 126(3), and
 - (d) a decision to refer a case for mediation under regulations under section 130.
- (3) SCW may not review a decision after the end of the period of 2 years beginning with the date on which the decision was made unless SCW thinks that it is in the public interest to do so.

Changes to legislation: There are currently no known outstanding effects for the Regulation and Inspection of Social Care (Wales) Act 2016, Cross Heading: Review. (See end of Document for details)

- (4) Where SCW decides to review a decision, it must give notice to the interested parties of—
- (a) the decision to carry out a review, and
 - (b) the reasons for carrying out a review.
- (5) In this section “interested parties” means—
- (a) the registered person in respect of whom the decision under review was made,
 - (b) the person (if any) who made an allegation in respect of which the decision was made, and
 - (c) any other person who SCW thinks has an interest in the decision.
- (6) On a review under this section, SCW may—
- (a) substitute for the decision under review another decision of a kind that could have been made by the original decision maker,
 - (b) refer the matter for investigation under section 125, or
 - (c) determine that the decision stands.
- (7) SCW must give notice of the outcome of the review to the interested parties.
- (8) SCW must by rules make provision about the arrangements for carrying out a review under this section.
- (9) Rules made under subsection (8) may, in particular, make provision about—
- (a) the procedure to be followed in carrying out a review (including provision for the interested parties to make representations to SCW);
 - (b) the content and timing of notices to be given under this section.

Commencement Information

II S. 131 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

132 Cancellation of referral to fitness to practise panel

- (1) This section applies where a matter has been referred to a fitness to practise panel under section 121 or 126(2) or to an interim orders panel under section 118(2)(b), 119(2) or 125(2) and—
- (a) SCW no longer thinks that there is a realistic prospect that the panel will find that the registered person's fitness to practise is impaired, or
 - (b) SCW otherwise thinks that it is no longer appropriate for the registered person to be subject to fitness to practise proceedings under this Part.
- (2) SCW may—
- (a) determine that the fitness to practise panel or interim orders panel may not commence or continue proceedings in respect of the matter, or
 - (b) determine that the fitness to practise proceedings may only commence or continue in respect of such particulars of the matter as SCW may specify.
- (3) Where SCW makes a determination under subsection (2) it may refer the matter, or specified particulars of the matter, for investigation under section 125.
- (4) SCW must give notice of a determination under subsection (2) to—

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- (a) the registered person to whom the matter relates,
 - (b) where an allegation has been made, the person who made the allegation, and
 - (c) any person to whom notice of the referral was given under section 123(2)(c), (d) or (e) or 127(3).
- (5) The notice must include the reasons for the determination.
- (6) SCW must by rules make provision about the procedure for exercising its functions under this section; in particular, provision about—
- (a) the procedure to be followed in making a determination under subsection (2), and
 - (b) the content and timing of a notice under subsection (4).

Commencement Information

I2 S. 132 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

133 Referral by SCW for review proceedings

- (1) This section applies where, in relation to a registered person, any of the following have effect—
- (a) undertakings agreed between the person and SCW under section 126(3)(d);
 - (b) undertakings agreed between the person and a fitness to practise panel under section 136(1), 152(5) or (6), 153(4), 154(4) or 155(7);
 - (c) 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);
 - (d) a suspension order made (or confirmed or varied) under section 138(8), 152(8)(d), 153(9)(c) or 154(6) or (7).
- (2) If SCW thinks at any time that it is desirable that a fitness to practise panel should review the registered person's fitness to practise, SCW may refer the case to the panel to carry out a review (see Chapter 5).
- (3) But SCW must refer a case to a fitness to practise panel to carry out a review of a registered person's fitness to practise if SCW has reason to believe that—
- (a) where the person has agreed an undertaking of the kind mentioned in subsection (1)(a) or (b), that the person has breached the undertaking, or
 - (b) where the person is subject to a conditional registration order of the kind mentioned in subsection (1)(c), that the person has breached any condition of the order.

Commencement Information

I3 S. 133 in force at 3.4.2017 by S.I. 2017/309, art. 2(e) (with arts. 3, 4, Sch.)

Changes to legislation:

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