



# 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.

### **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—
  - (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).

### **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.