

SL(5)758 – The Education Workforce Council (Interim Suspension Orders) (Additional Functions) (Wales) Order 2021

Background and Purpose

The Education Workforce Council (“the Council”) was continued in existence by the Education (Wales) Act 2014 (“the 2014 Act”). The Council is the independent regulator in Wales for:

- school teachers;
- school learning support workers;
- further education teachers (lecturers);
- further education learning support workers;
- work based learning practitioners;
- qualified youth workers; and
- qualified youth support workers.

As part of its role as regulator, the Council is required to maintain a register of all the persons registered with the Council in each of the categories listed above (known as “Registered Persons”).

The 2014 Act requires the Council to carry out such investigations as it thinks appropriate where it is alleged that a Registered Person is guilty of unacceptable professional conduct, professional incompetence or it is alleged the person has been convicted of a relevant offence. After carrying out such an investigation the Council must decide what action to take, with the imposition of a disciplinary order following a hearing being a possible outcome.

Currently, the functions conferred on the Council do not allow it to suspend a Registered Person pending the outcome of an investigation and disciplinary hearing. This Order adds to the functions of the Council so that the council may, by way of an Interim Suspension Order (“ISO”), suspend a Registered Person from the public register prior to the outcome of an investigation and disciplinary hearing.

Procedure

Draft Affirmative.

The Welsh Ministers have laid a draft of the Order before the Senedd. The Welsh Ministers cannot make the Order unless the Senedd approves the draft Order.



Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

Article 12 of this Order makes provision in connection with an application for review of an interim suspension order by the person to whom it relates.

Paragraph (1)(a) provides that a former Registered Person may make a request for an ISO to be reviewed within 6 months of:

- (i) the date of the ISO being made; or
- (ii) the date on which the order was extended by the High Court.

Paragraph (1)(b) provides that a subsequent request may be made within the 6 months thereafter.

Paragraphs (2)(a) and (b) provide that where a request for review has been made under paragraph (1)(a) or (b) respectively, the Council must convene a hearing to consider the case before the expiry of the 6 month period.

The effect of this is that the Council may have very little time to convene a meeting. This is illustrated in the following example:

An ISO is made against a person ("P") on Thursday 1 April. The 6 month period from the date on which the ISO was made expires on Thursday 30 September.

On Wednesday 29 September P submits an application (containing all the requisite information required by Article 13) to the Council requesting that it reviews the ISO.

*As P's application satisfies Article 12(1)(a) (it was made within the 6 month period), in order to comply with Article 12(2)(a) the Council **must** convene a hearing to consider the case by the end of Thursday 30 September (when the 6 month period expires).*

The application of paragraphs (2)(a) and (b) could result in onerous timescales being imposed on the Council in certain circumstances. This is inconsistent with the approach taken in paragraph (2)(c) which allows the Council a period of 10 working days to convene a hearing following receipt of an application made under paragraph (1)(c).

Welsh Government response

A Welsh Government response is required.



Committee Consideration

The Committee considered the instrument at its meeting on 15 March 2021 and reports to the Senedd in line with the reporting point above.



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee