



# **Education Workforce Council**

## **Registration Rules 2016**

**April 2016**

## Introduction

Citation and transitional provisions

1- (1) Under Regulations 18 and 19 of the *Education Workforce Council (Main Functions) (Wales) Regulations 2015* and Regulations 18A and 19A of the *Education Workforce Council (Main Functions)(Wales)(Amendment) Regulations 2016*, every:

- qualified teacher who carries out the specified work of a teacher in a maintained school or non-maintained special school in Wales;
- person who provides education in or for a further education institution in Wales (subject to the exclusions set out under Regulation 19);
- school learning support worker who provides the services set out under Regulation 18A (2) of the Regulations in a maintained school or non-maintained special school in Wales; and
- further education learning support worker who provides the services set out in section 16(2) of the *Education (Wales) Act 2014* in or for a further education institution in Wales,

must be registered with the Education Workforce Council.

(2) The Education Workforce Council in the exercise of the powers conferred upon it by the:

- (a) *Education (Wales) Act 2014*; and
- (b) *Education Workforce Council (Main Functions) (Wales) Regulation 2015*, as amended,

hereby make the following Rules, cited as the *Registration Rules 2016* which were approved and came into force on 1<sup>st</sup> April 2016.

(3) The *Registration Rules 2015* are hereby revoked, but shall continue to apply in respect of suitability meetings which are part-concluded as at 1<sup>st</sup> April 2016, and where the letter issued by the Council in accordance with Rule 9 was sent to the applicant before 1<sup>st</sup> April 2016.

(4) Save as provided for in paragraph (3), the *Registration Rules 2016* shall apply.

## Interpretation

2-(1) In these Rules, unless the context otherwise requires:

‘the Act’ means the *Education (Wales) Act 2014*;

'an agent' means one person (the agent) who makes arrangements for a registered person (the worker) to provide relevant services at the request of, or with the consent of, a relevant employer (whether or not under a contract). A private supply agency might typically come under the category of an agent;

'the applicant' means a person who has applied to be registered with the Education Workforce Council;

'appropriate body' has the same meaning as in section 17(2)(d) to the Act;

'categories of registration' means school teacher, school learning support worker, further education teacher and further education learning support worker, as defined by Schedule 2 to the Act;

'the Committee' means a Suitability Committee;

'criminal offence' means:

- (a) a conviction;
- (b) a caution (a formal warning about future conduct given by a senior police officer, usually in a police station, after a person has committed an offence. It is used as an alternative to charge and possible prosecution);
- (c) a warning (a young person given a second and 'final' formal warning about future conduct);
- (d) a reprimand (a reprimand has replaced the caution for young people aged under 18);

'the Council' means the Education Workforce Council;

'declaration' means where an applicant makes a declaration in the Council's *Application to Register with the Education Workforce Council (EWC)*, or elsewhere;

'disciplinary order' in relation to a registered person in Wales means a 'reprimand', 'a conditional registration order', 'a suspension order (with or without conditions)' or 'a prohibition order' within the meaning of section 27 to the Act;

'the duly authorised officer' means the person appointed by the Chief Executive Officer of the Education Workforce Council to act on his or her behalf;

'false declaration' means where an applicant fails to make a declaration in the Council's *Application to Register with the Education Workforce Council (EWC)*, or elsewhere;

'Fitness to Practice Committee' [sic] means a Committee established under Regulation 22 of the Regulations;

'induction period' means an induction period served or required to be served in accordance with Regulations made in England and Wales under:

- (a) section 19 of the 1998 Act;
- (b) section 135A of the 2002 Act; or
- (c) section 17 of the 2014 Act;

the 'DBS' means the Disclosure and Barring Service;

'lay member' means a member of the Committee who is not :

- (a) a registered person;
- (b) employed, or engaged to provide relevant services within the period of five years ending with the date of that person's appointment to the Committee;
- (c) barred from regulated activity relating to children (within the meaning of section 3(2) of the *Safeguarding Vulnerable Groups Act 2006(1)*);
- (d) subject to a disciplinary order made under the Act by virtue of which the person is ineligible to register; or
- (e) disqualified from working in a post equivalent to a category of registration;

'member of the public' means a person who is not an employer within the meaning of these Rules, or a person who is not registered or is ineligible for registration;

'month' means a calendar month;

'an officer of the Council' means an employee of the Council, or any person duly authorised to act on behalf of the Chief Executive Officer;

'other relevant information' means any other information which is either requested by and/or provided to the Council which may be deemed relevant to a suitability assessment;

'provisional registration' means the status of registration for which a person is eligible if, for the time being, that person meets one or more of the following conditions, namely:

- (a) the person is a qualified teacher and yet to complete an induction period;
- (b) the person is registered by the Council in the school teacher category of registration in accordance with the *General Teaching Council (Registration of Temporary Teachers from Relevant European States) (England and Wales) Regulations 2009*;

'suitability referral' means information received by the Council, at the time an application is made, which may affect an applicant's suitability to be a registered person. This may be:

- (a) provided by the applicant in a declaration; and/or
- (b) an applicant's failure to declare ('false declaration'); and/or
- (c) other relevant information from any other source;

'the Register' means the Register of Education Practitioners which the Council is required to establish and maintain in accordance with section 9(1) of the Act, detailed in the *Education Workforce Council (Main Functions) (Wales) Regulations 2015*, as amended,

and 'registration' means full or provisional registration on the Register in one or more categories of registration. 'Provisional' only applies to the school teacher category;

'registered person' means:

- (a) a person for the time being registered under Section 9 of the Act, including those registered on a provisional basis;
- (b) a person who was registered at the time of any alleged conduct or offence (whether under section 9 of the Act or under section 3 of the 1998 Act); or
- (c) a person who has applied to be registered;

'registered member' means a member of the Committee who is:

- (a) a registered person from the same category of registration as the registered person who is subject of the proceedings; and
- (b) employed, or engaged otherwise than under a contract of employment, in one of the posts described in the categories of registration on the date that registered person's appointment to the Committee,

and a registered member who ceases to be a registered person or who ceases to be employed or engaged in one of the posts described in the categories of registration shall cease to be a registered member;

a 'relevant employer' means a person who employs or otherwise engages registered persons to provide relevant services in Wales;

and 'current employer' and 'employed' shall be construed accordingly;

'suitable' means that the Council is satisfied that the applicant meets the standards expected of a registered person, in the relevant category or categories of registration;

'Suitability Committee' means a Committee convened to determine whether or not an applicant is suitable to be a registered person, in the relevant category or categories of registration;

'week' means a calendar week.

- (2) In these Rules, unless the contrary intention appears:
- (a) words in the singular include the plural, and words in the plural include the singular;
  - (b) numbered sub-paragraphs and paragraphs are references to the Rule in which they appear;
  - (c) numbered rules are references to the rules of these Rules.

### **Publication of the Rules**

- 3- (1) These Rules shall be:
- (a) made available without charge on request to any registered person or a person who has applied for registration;
  - (b) published on the Council's website;
  - (c) kept under continuous review and updated as and when appropriate.

### **Application for registration on the Register**

- 4-(1) An application for registration on the Register shall be made in the form and manner prescribed by the Education Workforce Council and must be accompanied by the correct registration fee.

The application shall:

- (a) be made in writing; and
- (b) be made on an application form provided by the Council; and
- (c) be submitted with the declaration fully completed and with the provision of supporting documents where required; and
- (d) be signed by the applicant or, if submitted online, with an electronic signature;
- (e) include completion of the Returning to Practice requirements if applicable.

- (2) An application for registration shall include the following particulars:
- (a) The category or categories of registration applied for;
  - (b) The applicant's teacher reference (DfES) number if they have one;
  - (c) The applicant's full name and any previously known name(s);
  - (d) The applicant's date of birth;
  - (e) The applicant's gender;
  - (f) The applicant's home or contact address and telephone number;
  - (g) The applicant's National Insurance Number;
  - (h) A declaration in the Council's *Application to Register with the Education Workforce Council (EWC) form*, or elsewhere to include:
    - (i) details of any cautions or convictions, not "protected" as defined by the *Rehabilitation of Offenders Act 1974 (Exceptions) Order (1975 Amendment) (England and Wales) Order 2013*, issued by a court of law in the UK or any other country;
    - (ii) details of any pending investigation or investigations that may lead to a conviction or caution in the UK or any other country;
    - (iii) details of any disciplinary action taken (or pending) against the applicant by an employer or any other professional regulatory body or similar authority;
  - (i) Evidence of compliance with the Returning to Practice scheme where it applies by the completion of the 'period of updating' form;
  - (j) Any such other information as may be required by the Council.
- (3) The Council may require any application for registration to be accompanied by such documents as it considers is appropriate.
- (4) Any change to any of the particulars specified in the application for registration shall be notified to the Council in writing.
- (5) Registration with another General Teaching Council is not automatically transferable to Wales. A new application for registration must be made.

### **Entitlement to registration**

- 5- (1) A person shall be entitled to registration on the Register provided he / she:

- (a) meets the qualification requirements for the category or categories of registration (school teachers must hold Qualified Teacher Status (QTS)); and
  - (b) has satisfactorily completed any period of Induction required by section 17 of the Act (school teachers who gained Qualified Teacher Status after 1<sup>st</sup> April 2003). Where an applicant is required to complete the statutory Induction period under the Act but is yet to do so, they are eligible to apply for provisional registration status only; and
  - (c) is not prohibited or suspended from practicing by the Council in the category or categories of registration for which registration is sought, and is not prohibited or suspended by any of its equivalents in the United Kingdom or Ireland; and
  - (d) is not prohibited by the Secretary of State; and
  - (e) is not barred from regulated activity relating to children (within the meaning of section 3(2) of the *Safeguarding Vulnerable Groups Act 2006*); and
  - (f) is not disqualified from working in a post equivalent to the category of registration for which registration is sought in another part of the United Kingdom; and
  - (g) has submitted satisfactory evidence of compliance with the Council's Returning to Practice Scheme, in accordance with Rule 4(2)(i), where appropriate; and
  - (h) has been deemed suitable for registration by the Council in the category or categories of registration for which registration is being sought.
- (2) Where the Council determines to refuse an application for registration as one of paragraph (1)(a) to (1)(j) is not met, it will write to the applicant giving reasons for the refusal.

### **Suitability for registration**

- 6-(1) In accordance with Rule 4(1) and Rule 5(1)(h), the Council shall assess the suitability of an applicant for registration where he or she has made an application to be registered, and a suitability referral is subsequently received.
- (2) The Council shall, at all times, assess whether or not a referral should be made to the DBS, based on the evidence and information received by it, and whether there is a suggestion of harm, or a risk of harm to children or vulnerable adults.
  - (3) Where a suitability referral should be forwarded to another body, it shall be referred to the other body accordingly, and the duly authorised officer shall notify all relevant parties.



- (4) Should the duly authorised officer consider it appropriate given the nature of the information received about an applicant, he or she may forward a suitability referral directly to a Stage 3 assessment (Suitability Committee meeting) under Rule 9.

#### Stage 1 assessment

- 7- (1) Where the applicant under Rule 4(2)(h) or elsewhere confirms the existence of a minor criminal offence or offences, and the duly authorised officer is of the view that such offences may fall within a Council-approved list of criminal offences which may be dealt with by the duly authorised officer, he or she may grant the application for registration on the grounds that the applicant is suitable to be a registered person, in the relevant category or categories of registration.

#### Stage 2 assessment

- 8-(1) Where:

- (a) an applicant makes a declaration under Rule 4(2)(h), or elsewhere; and/or
- (b) an applicant makes a false declaration under Rule 4(2)(h), or elsewhere; and/or
- (c) an applicant under Rule 4(2)(h), confirms the existence of a criminal offence or offences, and Rule 7(1) does not apply; and/or
- (d) where other relevant information is received,

the duly authorised officer will invite the applicant to provide written representations in support of their suitability to be a registered person, and may make further enquiries with other relevant bodies, as appropriate.

- (2) Where the duly authorised officer intends to make further enquiries with other relevant bodies, it will first seek the consent of the applicant before sharing his or her response received under paragraph 1.
- (3) Following a consideration of any representations made by an applicant, and any information received from other relevant bodies under paragraph (1), the duly authorised officer shall either:
  - (a) grant the application for registration on the grounds that the applicant is suitable to be a registered person in the relevant category or categories of registration; or
  - (b) invite the applicant to attend a meeting of the Suitability Committee (Stage 3 assessment).

### Stage 3 assessment (Suitability Committee meeting)

#### *Notification*

- 9- (1) Where a suitability referral has been forwarded to a Stage 3 assessment (Suitability Committee meeting), the duly authorised officer shall send to the applicant a letter in accordance with paragraph (2) by special delivery to his or her latest address known to the Council, giving him or her at least six weeks' notice of the Suitability Committee meeting.
- (2) The letter shall:
- (a) inform the applicant of the time and date of the meeting, its location and the identity of the Suitability Committee members;
  - (b) enquire whether or not the applicant intends to appear in person and/or to be represented at the meeting;
  - (c) enquire whether the applicant believes that a conflict of interest may arise with any member of the Committee, and if so, what the reason is;
  - (d) require that the applicant responds to sub-paragraphs (2)(b) and (2)(c) within two weeks from the day the letter is sent;
  - (e) set out the details of the suitability referral to be considered by the Committee, enclosing the assessment evidence;
  - (f) invite the applicant to make any additional written representations regarding the details referred to in sub-paragraph (2)(e) and his or her suitability within three weeks from the day the letter is sent. These representations may include witness statements;
  - (g) have annexed to it a copy of these Rules.
- (3) The duly authorised officer shall send a copy of the letter, as provided in paragraph (2), to the current employer or agent of the applicant where known.

#### *Attendance and representation*

- 10-(1) The applicant whose suitability is being assessed shall be encouraged to appear in person and/or be represented at a meeting by any person of his or her choice, including a legal representative.
- (2) Where the applicant does not attend and is not represented at a meeting, the Chair shall:
- (a) request evidence from the duly authorised officer that a letter has been sent to the applicant in compliance with Rule 9; and

- (b) enquire with the duly authorised officer whether any reasons for the applicant's absence have been communicated to an officer of the Council.
- (3) Where the Committee is not satisfied that Rule 9 has been complied with, the Committee shall adjourn the meeting.
- (4) Where the Committee is satisfied that Rule 9 has been complied with, and the applicant does not attend, after considering any written or oral representations made by or on behalf of the applicant and taking into account any advice from the legal adviser, the Committee may proceed in the absence of the applicant or adjourn the meeting.

*Meeting procedure*

- 11- (1) The procedure to be followed at the meeting shall be determined by the Committee Chair, in accordance with Rule 11(2) to (14).
- (2) Meetings of the Suitability Committee shall be held in private.
- (3) Officers of the Council shall ensure all information received, including any written representations and evidence submitted by the applicant, is sent to all parties in advance of the meeting, save where the applicant provides representations and evidence to the Council outside of the timescales set down in Rule 9(2)(d) and 9(2)(f). If such timescales are not adhered to, representations and evidence upon which the applicant intends to rely may only be admitted at the discretion of the Committee.
- (4) The Chair shall request the members of the Committee present to introduce themselves, confirm the identity of the applicant whose suitability is being assessed, and his or her representative, and ask for confirmation that there are no conflicts of interest between the parties.
- (5) The duly authorised officer, as directed by the Chair, shall read the details of the suitability referral which call into question the applicant's suitability to be a registered person. The Chair shall enquire of the applicant whether the facts of the referral are admitted or not.
- (6) The duly authorised officer shall draw the Committee's attention to relevant evidence in the papers.
- (7) The applicant, or his or her representative, may present relevant evidence relating to the facts, mitigation, and the applicant's suitability to be registered person. This may include the applicant giving evidence.
- (8) If the applicant chooses to give evidence, the Committee may question the applicant.
- (9) A Committee may, in exceptional circumstances and before its final decision, forward a suitability referral to a differently constituted Suitability Committee where it appears

that there has been a breach of Committee Constitution or a breach of natural justice (Annex).

- (10) Where a Committee forwards a suitability referral to another Committee, the duly authorised officer shall inform the parties accordingly.
- (11) A Suitability Committee may at any stage:
  - (a) require further enquiries to be conducted by an officer of the Council;
  - (b) request further evidence / documents from any relevant party,and any evidence / documents obtained shall be copied to the applicant.
- (12) An officer of the Council requested by a Suitability Committee to undertake further enquiries under paragraph (11) shall present the results of any such investigations in writing to the Committee.
- (13) A Suitability Committee may at any stage adjourn assessment of an applicant's suitability.
- (14) An applicant may make a written request for the meeting to be conducted (all or in part) in Welsh.

#### *Decision*

- 12- (1) The Suitability Committee shall determine, on the basis of the evidence before it, to:
  - (a) grant the application for registration on the grounds that the Committee is satisfied that the applicant is suitable to be a registered person, in the relevant category or categories of registration; or
  - (b) refuse the application for registration on the grounds that the Committee is not satisfied that the applicant is suitable to be a registered person, in the relevant category or categories of registration; or
  - (c) adjourn the assessment for further enquiries to be made under Rule 11(11) or legal advice prior to a final determination under this Rule.
- (2) The applicant shall be informed in writing of the Suitability Committee's decision within two weeks of it reaching it.
- (3) Under sub-paragraph (1)(a), arrangements to enable the applicant to register will be made.
- (4) Under sub-paragraph (1)(b) and Rule 5(2), the written decision of the Committee shall specify the grounds on which the decision was taken, and notify the applicant of his or

her right of appeal against the decision to the High Court within 28 days from the date on which the written decision is sent to him or her.

- (5) Under sub-paragraph (1)(b), no further application for registration may be made by the applicant for a period of 12 months, beginning with the date the Committee made its decision.
- (6) Where an assessment is adjourned under sub-paragraph (1)(c), it may be referred to the same Committee or a newly-constituted Committee.

#### *Burden and Standard of proof*

- 13- (1) The burden of proof as to establishing an applicant's suitability to be a registered person under Rules 6 to 12, and Rule 15, shall rest with the applicant.
- (2) The standard of proof is the civil standard, 'on the balance of probabilities'.

#### *Referrals to the DBS*

- 14- (1) An officer of the Council may, of his or her volition or at the direction of a Suitability Committee, and at any stage of the suitability assessment process in accordance with Rule 6(2), forward a suitability referral to the DBS if it suggests harm, or a risk of harm to children or vulnerable adults.
- (2) An officer of the Council shall, as a result of action taken under paragraph (1), notify the applicant in writing of the referral.

#### **Suitability for registration following a refused application**

- 15-(1) Where an application for registration is refused on the grounds that the applicant was not suitable to be a registered person in the relevant category or categories of registration under Rule 12(1)(b), subject to Rule 12(5), he or she may make an application to the Council for a determination that they may be suitable.
- (2) If an applicant is refused registration in one or more categories under Rule 12(1)(b), he or she shall remain eligible to make an application in respect of any other category or categories, even if 12 months has not expired.
- (3) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the applicant seeks the determination, and shall be accompanied by every document relied upon in support of the application. This must include new evidence to demonstrate significant changes in an applicant's suitability.
- (4) Where a person makes an application to the Council for a determination that he or she is suitable to be registered following a refusal, a Suitability Committee shall conduct a meeting in accordance with these Rules.

- (5) The duly authorised officer shall send to the applicant a letter by special delivery to the applicant's latest address known to the Council which shall:
- (a) inform the applicant of the time and date of the meeting, its location and the identity of the Suitability Committee members; and
  - (b) have annexed to it a copy of the evidence given, and the Committee's decision at the meeting when the determination was made that the applicant should be refused registration in the relevant category or categories of registration on the grounds that it was not satisfied as to his or her suitability to be a registered person.
- (6) In considering the application, these Rules shall apply as appropriate given the Committee's role.
- (7) The Committee shall determine whether or not it is satisfied the person is suitable to be admitted to the Register.
- (8) The Committee, in making its decision, shall consider:
- (a) the reasons for the original application being refused; and
  - (b) the particulars in support of the application;
  - (c) whether or not the applicant has been of good character since the original application was refused; and
  - (d) whether or not the applicant has demonstrated his or her willingness and ability in the future to adhere to the standards of conduct expected of a registered person and/or is able to demonstrate a level of competence which does not fall short of that expected of a registered person.
- (9) An application made under paragraph (1) shall be determined by another Suitability Committee and shall not include as a member any person who was a member of the Committee which refused the original application for registration.
- (10) If the Committee is satisfied that the applicant is suitable to be a registered person in the relevant category or categories of registration, arrangements to enable the applicant to register will be made.
- (11) If the Committee is not satisfied that the applicant is suitable to be a registered person in the relevant category or categories of registration, and the application is refused, no further application for registration may be made within 12 calendar months of the date of the determination of the Suitability Committee under this Rule, or within such longer period as the Committee may determine.

## **Contents of the Register**

- 16- (1) There shall be recorded against the name of a person registered on the Register the matters listed in Schedule 2 to the *Education Workforce Council (Main Functions) (Wales) Regulations 2015*, as amended.
- (2) The Council may make provision to record additional matters in the Register as it deems necessary, and which it considers material to a person's registration.
- (3) Where a disciplinary order has expired, the Council may make provision for the expired order to be recorded on the Register with a clear identification that the order has expired. This provision will be for a period of 1 year after expiry and will be accessible to prospective and current employers and agents only.

## **Amending entries on the Register**

- 17- (1) A registered person shall notify the Council within a period of one month of any change to any particulars recorded in the Register in relation to him or her.
- (2) The Council shall, so far as may be necessary, amend the Register:
- (a) to give effect to the notice given under paragraph (1);
  - (b) to give effect to any decision or disciplinary order made by the Council;
  - (c) to give effect to any information which has come to the attention of the Council and which, in its opinion, calls for an amendment in order to maintain the accuracy of the Register.
- (3) The Council may request documentary proof of amendments or additions to the Register, including qualifications, name changes or bereavements.

## **Restoration of entries on the Register**

- 18- (1) Where a registered person, on inspection of the Register, identifies an omission of an entry in relation to him or her, he or she shall inform the Council as soon as practicable with any such available supporting evidence as the registered person may obtain.
- (2) The Council shall also restore, if satisfied with the evidence, such entry as is reported to the Council under paragraph (1), or reported to the Council by any other means.
- (3) A person on the Register who is subject to a Suspension Order (with or without conditions) by the Council will be restored to the Register at the end of the suspension period subject to:
- (a) the submission of a new application for registration in accordance with Rule 4;

- (b) the provisions of Rules 5 and 19(3);
  - (c) compliance with any conditions imposed by a Fitness to Practise Committee.
- (4) A person who is subject to a Prohibition Order imposed by the Council may only apply for restoration of eligibility to register in the category or categories of registration for which the Prohibition Order was imposed in line with Rule 34 of the Council's *Disciplinary Procedures and Rules 2016*.

## **Registration fees**

- 19- (1) The Council may charge annual fees, with the approval of the Welsh Government ("registration fee") for:
- (a) the registration of a person on the Register;
  - (b) the annual retention of entries on the Register; and
  - (c) the restoration of entries on the Register.
- (2) The Council shall publish the registration fee, on such occasion as it agrees a new sum under paragraph (1), on the Council's website and in the form of a letter which shall be made available to:
- (a) registered persons;
  - (b) employers and agents;
  - (c) any person who requests it.
- (3) Subject to paragraph (4), the Council may refuse an application for registration until the registration fee pursuant to sub-paragraph (1)(a) has been paid.
- (4) The Council may make provision for there to be exceptions where fees are not charged.
- (5) The registration fee pursuant to sub-paragraph (1)(b) shall be payable:
- (a) to the Council on or before 1st April of each year; and
  - (b) in accordance with section 12 of the Act ; or
  - (c) by other means as the Council may direct.
- (6) For the purposes of the registration fee, "a year" begins on 1<sup>st</sup> April and ends on 31<sup>st</sup> March of the following year.



(7) Where a registered person is responsible for remitting their own annual registration fee but fails to make the registration fee payment for the purposes of retention on the Register under sub-paragraph (1)(b) for the year in which the registration fee is due, the Council:

- (a) shall send notice to the registered person requesting payment of the registration fee; and
- (b) may remind the registered person that failure to pay the registration fee within a specified time will result in the removal of that registered person's entry on the Register, under Rule 20(1)(a); and
- (c) shall notify the registered person that an administrative charge may be payable to cover the cost of the persons paying their fee late.

The Council shall use the home address and / or e-mail address held on the Register against a person's name for this purpose.

### **Removal of entries on the Register**

20- (1) The Council shall remove entries from the relevant category or categories of the Register where a registered person:

- (a) has failed to pay the registration fee under Rule 19(1)(b) after due notice has been given by the Council under Rule 19(7);
- (b) has failed to satisfactorily complete any period of induction required by virtue of section 17 of the Act;
- (c) is prohibited or suspended from practicing by the Council from one or more categories of registration, or is prohibited or suspended by any of the Council's equivalents in the United Kingdom or Ireland;
- (d) is prohibited by the Secretary of State;
- (e) is barred from regulated activity relating to children (within the meaning of section 3(2) of the *Safeguarding Vulnerable Groups Act 2006*);
- (f) is disqualified from working in a post equivalent to the category of registration for which registration is sought in another part of the United Kingdom; and
- (g) subject to paragraph (2), makes a written application to the Council for deregistration on the grounds that he / she:
  - (i) has ceased to be employed as an education practitioner; and
  - (ii) does not intend to seek employment as an education practitioner.

- (h) the Council is notified in writing of the death of a registered person. Where this notification is provided by a registered person's next of kin, this must include a copy of the death certificate.
- (2) Sub-paragraph (1)(a) shall not apply where:
- (a) the Council receives a referral involving an allegation of unacceptable professional conduct, serious professional incompetence or a conviction of a relevant offence; or
  - (b) the registered person is under investigation by the Secretary of State (DfE) or DBS.
- (3) Where the Council removes an entry in relation to a registered person, the Council:
- (a) shall notify him or her (except where sub-paragraph (1)(h) applies); and
  - (b) may notify the person's current employer or agent,
- as to the reasons for the removal of the entry.
- (4) Nothing in this Rule shall preclude the Council from removing an entry on the Register made in error or to correct such other minor errors as may appear on the face of the Register.

### **Access to the Register**

- 21- (1) The Council may make available the names of registered persons on the Register in such manner as the Council may determine.
- (2) The Council shall supply a registered person, upon request, with a copy of the information entered on the Register against that registered person's name;
- (3) The Council shall, if requested by an employer or agent or prospective employer or agent of a registered person, provide that organisation with the information set out in Regulation 8 to the *Education Workforce Council (Main Functions) (Wales) Regulations 2015*, as amended.
- (4) The Council may, on receipt of a request from a member of the public, inform him / her whether or not a person is a registered person.
- (5) Under Regulation 8 to the *Education Workforce Council (Main Functions) (Wales) Regulations 2015*, as amended, the Council may provide information entered onto the Register to the Welsh Government, the Secretary of State (DfE) including via the National College for Teaching and Leadership, the DBS and the General Teaching Councils within the United Kingdom and Ireland.

### **List of formerly registered persons**

22- (1) The Council shall maintain details of education practitioners who have been removed from the Register.

### **Service provision on a temporary or occasional basis**

23- (1) These Rules do not apply to service provision on a temporary or occasional basis under EU Directive 2005/36/EC. Such applications will be determined in line with the provisions in the Directive.

## Constitution and meetings

### Committee membership

- (1) The following points relate to a Suitability Committee.
- (2) A Committee shall consist of a minimum of three persons. The quorum for a meeting of the Committee shall be three which must include:
  - (a) one or more lay members;
  - (b) one or more registered persons from the same category of registration as the registered person who is the subject of the suitability assessment proceedings.
- (3) In constituting a Committee, the Council shall have regard to equality and diversity and its statutory Welsh Language Scheme.
- (4) Where a Committee is assessing the suitability of an applicant and a member:
  - (a) is unwilling; or
  - (b) is unable to remain a member,and there is no longer a quorum, the determination shall be adjourned and a new Committee appointed to consider the matter.
- (5) Where, in considering a referral, any member of a Committee considers that a fair-minded and informed observer could perceive that he or she has a conflict of interest, that member shall make a declaration accordingly. This may, following legal advice, result in the member being disqualified from sitting in relation to that suitability assessment.
- (6) In pursuance of paragraph (5), where a member of the Committee belongs to the same union or professional association as the applicant, this shall not in itself constitute a conflict of interest for the purposes of this Rule.

### Chairs

- (1) Each Suitability Committee shall have a Chair.
- (2) In the absence of the appointed Chair under paragraph (1), the Committee shall appoint another of its members to act as the Chair.

### Meetings

- (1) A Committee shall be convened at such time and place as a duly authorised officer considers appropriate by sending appropriate notices to the members selected for that Committee.

A Suitability Committee shall be convened normally within six weeks of a referral being forwarded to it by the duly authorised officer.

- (2) Officers of the Council:
  - (a) may be in attendance at all Committee meetings;
  - (b) shall not participate in the making of the decision of a Committee.

### Voting and decision making

- (1) Any decision of a Committee shall be made by a vote of the members of that Committee.
- (2) Any question put to the vote of a Committee shall be put in the form of a motion by the Committee Chair.
- (3) No member in attendance at a meeting of a Committee may abstain from voting when any question is put to a vote.
- (4) Where a question is put to a vote, the Chair shall:
  - (a) call on the members to vote for or against the motion; and
  - (b) declare that the motion has been carried or not carried, as the case may be.
- (5) Where the votes are equal on any motion, the motion shall be deemed to have been resolved in favour of the applicant.

### Legal adviser or other professional adviser

- (1) The Council shall make available to a Suitability Committee constituted under these Rules any such legal adviser and/or other professional adviser as may be required by it to act as an adviser in the course of a meeting.
- (2) Where a Committee requires legal advice and/or other professional advice which is given to it by the legal adviser and/or other professional adviser made available by the Council, the appointed legal adviser and/or other professional adviser shall make a written declaration in relation to the nature of the advice the Committee sought and received.

- (3) The legal adviser and/or other professional adviser shall not be a person who has previously addressed the Committee in a matter in relation to which the Committee seeks advice in any capacity other than as a legal adviser or other professional adviser.