



Education Workforce Council

Disciplinary Procedures and Rules 2015

April 2015

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Section 1

Introduction

1.0 The Council and its role in regulating the education workforce in Wales

The Education Workforce Council came into force on 1st April 2015 following the reconfiguration of the General Teaching Council for Wales and is the statutory, self-regulating professional body for education practitioners in Wales.

The aims of the Education Workforce Council are to:

- contribute to improving the standards of teaching and the quality of learning in Wales;
- maintain and improve standards of professional conduct amongst teachers and persons who support teaching and learning in Wales;

In pursuing these aims, the Council seeks to raise the status of practitioners in education and training, safeguard the interests of learners and the public and maintain public confidence in the education workforce.

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

- qualified teacher who carries out the specified work of a teacher in a maintained school or non-maintained special school in Wales; and
- person who provides education in or for a further education institution in Wales (subject to the exclusions set out under Regulation 19(2) of the Regulations),

must be registered with the Education Workforce Council.

Under the terms of the *Education (Wales) Act 2014*, the Council is responsible for investigating and hearing cases of unacceptable professional conduct, serious professional incompetence and/or where a registered person has been convicted (at any time) of a relevant offence, or it appears that a registered person may be so guilty or have been so convicted.

All referrals received by the Council are considered, investigated and heard in the public interest. This includes the protection of members of the public, the maintenance of public confidence in the education workforce and the declaration and upholding of proper standards of conduct and competence.

The Council's powers in these matters are further set out under the *Education Workforce Council (Main Functions) (Wales) Regulations 2015*.

The *Disciplinary Procedures and Rules* will be kept under continuous review and will be updated as and when considered appropriate by the Council.

In the event of any conflict or inconsistency between the English language and Welsh language versions of this document, the English language version will prevail.

2.0 Key contacts

Any queries regarding these procedures should be directed to the following:

Contact	The Fitness to Practise Team
Address	9 th Floor Eastgate House 35-43 Newport Road Cardiff CF24 0AB
Telephone	029 2046 0099
Fax number	029 2047 5850
E-mail	fitnesstopractise@ewc.wales

Section 2

Disciplinary Procedures and Rules 2015

1.0 Introduction

Introduction, citation and transitional provisions

- 1- (1) The Education Workforce Council in the exercise of the powers conferred upon it by:
- (a) *The Education Workforce Council (Main Functions) (Wales) Regulations 2015*; and
 - (b) all other powers enabling it in that behalf under the *Education (Wales) Act 2014*,
- hereby make the following Procedures and Rules, cited as the *Disciplinary Procedures and Rules 2015*, which were approved and came into force on 1st April 2015.
- (2) The *Disciplinary Procedures and Rules July 2013* of the General Teaching Council for Wales are hereby revoked, but shall continue to apply in respect of hearings of the General Teaching Council for Wales which are part-heard as at 1st April 2015, or in respect of which the relevant Notice of Proceedings was sent to the registered teacher by the General Teaching Council for Wales before 1st April 2015.
- (3) Save as provided for in paragraph (2), the *Disciplinary Procedures and Rules 2015* shall apply.

Interpretation

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

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

‘the 1998 Act’ means the *Teaching and Higher Education Act 1998*;

‘allegation’ means an allegation that a registered person may be guilty of unacceptable professional conduct, serious professional incompetence or has been convicted (at any time) of a relevant offence;

‘an agent’ means one person (the agent) who makes arrangements for a registered person 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,

and ‘current agent’ shall be construed accordingly;

‘a case to answer’ means an Investigating Committee is of the opinion that there is a realistic prospect of a finding of unacceptable professional conduct, serious professional incompetence and/or a conviction of a relevant offence being made by a Fitness to Practise Committee;

‘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;

‘child’ (in relation to ‘Child and vulnerable witnesses’) means a person who has not attained the age of 18 years;

‘Code of Practice’ means the code of practice prepared and published under section 24 of the Act;

‘the Committee’ means in relation to Section 2 of these Procedures and Rules, the Investigating Committee (Part 3.0), and Fitness to Practise Committee (Part 4.0), and the Annex;

‘the Council’ means the Education Workforce Council;

‘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 of the Education Workforce Council to act on his or her behalf;

the ‘DBS’ means the Disclosure and Barring Service;

‘employer’ means a person who employs or engages a registered person to provide relevant services,

and ‘current employer’ and ‘employed’ shall be construed accordingly;

‘facts of the case’ means the particulars of the allegation of unacceptable professional conduct, serious professional incompetence and/or a conviction of a relevant offence;

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

‘hearing’ means the hearing of a case by a Fitness to Practise Committee of disciplinary proceedings against a registered person, or a hearing under Regulation 37, 38, 39, 40 or 41 of the Regulations;

‘Investigating Committee’ means a Committee established under Regulation 20 of the Regulations;

‘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.

‘month’ means a calendar month;

‘order’ means disciplinary order within the meaning of paragraph 2 of section 27 to the Act;

‘presenting officer’ means the person appointed by the Council to present the Council’s case before a Fitness to Practise Committee;

‘previous agent’ means an agent of a registered person at the time the allegation relates;

‘previous employer’ means an employer of a registered person at the time the allegation relates;

‘referral’ means a criminal disclosure involving a registered person, or a disciplinary case from an employer or agent, or a complaint or 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, as detailed in the Regulations,

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 the subject of the disciplinary 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 of that registered person member’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 must cease to be a registered member.

‘the Regulations’ means the *Education Workforce Council (Main Functions) (Wales) Regulations 2015*;

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

'relevant offence' means in the case of a conviction in the United Kingdom, a criminal offence other than one having no material relevance to the person's fitness to be a registered person in the relevant category of registration. In the case of a conviction elsewhere, an offence which, if committed in England and Wales, would constitute such an offence as is mentioned in Schedule 27(1) (a) to the Act;

'relevant services' means services which may be provided only by a registered person;

'serious professional incompetence' means conduct which demonstrates a level of incompetence which falls seriously below that expected of a registered person, taking into account all the relevant circumstances, within the meaning of Regulation 3 of the Regulations;

'services' means services provided to a relevant employer in Wales and includes professional and voluntary services;

'unacceptable professional conduct' means conduct which falls short of the standard expected of a registered person within the meaning of Regulation 3 of the Regulations;

'vulnerable witness' means a person whose quality of evidence is likely to be adversely affected at a hearing. This may include:

- (a) any witness with a mental disorder (i.e. mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind);
- (b) any witness who is significantly impaired in relation to intelligence or social functioning;
- (c) any witness with physical disabilities who requires assistance to give evidence;
- (d) any witness where the allegation against the registered person is of a sexual nature and the witness was the alleged victim;
- (e) any witness who complains of intimidation.

'week' means a calendar week.

(2) In these Procedures and 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 Procedures and Rules.

Publication of the Procedures and Rules

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

2.0 Investigation of referrals

Preliminary

- 4- (1) Subject to paragraph (2) and Rule 5, the Council shall investigate all referrals received where it is alleged that a registered person is guilty of unacceptable professional conduct or serious professional incompetence, and/or has been convicted (at any time) of a relevant offence.
- (2) The Council shall assess whether or not a referral should be made to the DBS at all times, 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) For the purposes of these Rules, the date the allegation is made shall be the date the referral is received by the Council.
- (4) The Council must take into account any failure by a registered person to comply with a Code of Conduct and Practice, issued by the Council under Section 24 of the Act and Regulation 23 of the Regulations.

Deciding whether a referral should be investigated

- 5- (1) Where a referral is received by the Council in the form of a criminal disclosure, the duly authorised officer:
- (a) may conclude that the referral should not be investigated in accordance with Rule 6, with reference to a Council-approved list of convictions and other criminal sanctions considered by it to be incapable of amounting to an allegation. The Council shall therefore take no further action in respect of the referral.
 - (b) shall, where sub-paragraph (1)(a) does not apply, forward the referral to the Investigating Committee for investigation under Rule 6.
- (2) Where a referral is received by the Council in the form of a complaint from a person other than the employer or agent, the duly authorised officer:

- (a) may conclude the complaint should not be investigated in accordance with Rule 6, if:
 - (i) it has not been reported to the registered person's employer or agent, and local procedures for complaint resolution have not been exhausted.

The Council shall take no further action in respect of such a referral.
 - (ii) the duly authorised officer is of the opinion that, with reference to the Council's Code of Conduct and Practice in force at that time, the complaint is not considered capable of amounting to an allegation.

The Council shall take no further action in respect of such a referral.
 - (iii) the same complaint has already been received and concluded by the Council.

The Council shall take no further action in respect of such a referral.
- (b) shall, where the referral does not fall under sub-paragraph 2(a), forward it to the Investigating Committee for consideration under Rule 6, and make enquiries of the registered person's employer or agent to establish whether or not:
 - (i) a complaint has been made to it and, if so, the nature of the complaint; and
 - (ii) the complaint has been investigated by it and, if so, the outcome of that investigation; or
 - (iii) the complaint will be investigated by it and, if so, the likely time necessary for that investigation.
- (3) Where a referral is received by the Council from the employer or agent in accordance with supply of information requirements set out under section 36 and section 37 to the Act, and Regulation 45 and Regulation 46 of the Regulations, the duly authorised officer shall forward the referral to the Investigating Committee for investigation under Rule 6.
- (4) Where a referral is received from any source (for example, the DBS) the Council or its duly authorised officer shall consider whether or not the conduct or incompetence referred is capable of amounting to an allegation, with reference to the Council's Code of Conduct and Practice in force at that time, before proceeding under Rule 6.
- (5) Where a criminal disclosure is concluded under sub-paragraph (1)(a), the registered person's current or previous employer or agent, as the case may be, shall not be notified of the referral unless the registered person consents in writing.
- (6) Where a complaint is concluded under sub-paragraph (2)(a), the registered person against whom a complaint has been made shall be notified of the complaint, its source and the Council's decision.

- (6) Where the Council receives further evidence relating to a criminal disclosure where the duly authorised officer had previously determined to take no further action in accordance with sub-paragraph (1)(a), and the additional evidence, together with the evidence previously received, is, in the view of the duly authorised officer, capable of amounting to an allegation, he or she may forward the referral to an Investigating Committee in accordance with Rule 6. This further evidence may consist of an additional criminal offence committed by the registered person.
- (7) Where the Council receives further evidence relating to a referral in the form of a complaint where the duly authorised officer had previously determined to take no further action under sub-paragraph (2)(a), the duly authorised officer shall make enquiries in accordance with sub-paragraph 2(b), and invite the teacher to comment thereon. Should the duly authorised officer be of the view that the additional evidence, together with the evidence previously received, is capable of amounting to an allegation, he or she may forward the referral to an Investigating Committee in accordance with Rule 6.

3.0 Investigating Committee

Notice of Investigation

- 6- (1) Where a referral is forwarded to an Investigating Committee to be investigated, the duly authorised officer shall send to the registered person a Notice of Investigation in accordance with paragraph (2) by special delivery to his or her last known address as recorded on the Register, or such other latest address known to the Council.
- (2) The Notice of Investigation shall:
 - (a) set out the matters referred to the Committee, enclosing a copy of the information received about the registered person;
 - (b) inform the registered person of the date of the Investigating Committee which is to consider the referral, and the identity of the members of that Committee;
 - (c) invite the registered person to make written representations regarding the matters referred to in sub-paragraph (2)(a) and provide, within four weeks from the day the Notice was sent, any written evidence the registered person wishes to submit;
 - (d) enquire whether the registered person believes a conflict of interest may arise in relation to any member of the Committee, and if so, what the reason is;
 - (e) have annexed to it a copy of these Procedures and Rules.
- (3) The duly authorised officer shall send a copy of the Notice of Investigation to the employer or agent of the registered person at the time the referral being investigated arose, and to any current employer or agent.

Proceedings of an Investigating Committee

- 7- (1) Subject to paragraphs (2) to (7) and to Voting and decision making (Annex), the procedure shall be determined at the discretion of the Chair.
- (2) The Committee shall, before investigating a referral, ensure that all relevant available information, including any written representations and evidence received from the registered person, is available to the Investigating Committee.
- (3) When investigating a referral, an Investigating Committee may, at any stage:
- (a) require further enquiries to be conducted by an officer of the Council;
 - (b) request further evidence / documents from the referral source,
- and any evidence / documents obtained shall be copied to the registered person.
- (4) An Investigating Committee shall consider the evidence provided to it, including any written representations and evidence submitted by the registered person.
- (5) An Investigating Committee may, at any stage, adjourn investigation of the referral.
- (6) An officer of the Council requested by an Investigating Committee to undertake further enquiries under paragraph (3) shall provide any further information and/or evidence acquired to the Committee and registered person.
- (7) Meetings of the Investigating Committee shall be held in private.

Decision of an Investigating Committee

- 8- (1) Where a Notice of Investigation has been issued under Rule 6, an Investigating Committee constituted to investigate a referral may:
- (a) decide there is no case for the registered person to answer; or
 - (b) decide there is a case for the registered person to answer, and forward the referral to a Fitness to Practise Committee as appropriate; or
 - (c) decide the referral, or any part of it, should be forwarded to the DBS; or
 - (d) decide the referral should be discontinued on other grounds. For example, because of the exceptional personal circumstances of the registered person at the time of the Committee's decision. However, such 'other grounds' shall not include any defect or deficiency in any procedure required to be observed by an employer or agent or any other person under the registered person's terms of employment or contract; or
 - (e) adjourn for further enquiries to be made under Rule 7(3) , or for legal advice under Rule 7(5), prior to a final determination under this Rule.

- (2) Where a referral is concluded under paragraph (1), the registered person and the registered person's previous and/or current employer or agent, as may be the case, shall be informed in writing of the Investigating Committee's decision, including reasons, within two weeks of it reaching a decision.
- (3) Where the investigation of a referral is adjourned under sub-paragraph (1)(e), the referral may be forwarded to the same Committee or a newly-constituted Committee.
- (4) A Committee convened under this Rule may, in exceptional circumstances and before its final decision, forward a referral to a differently constituted Investigating Committee where it appears that there has been a breach in relation to Committee membership or of natural justice (Annex).
- (5) Where a Committee forwards a referral to another Committee, the duly authorised officer shall inform the parties accordingly.
- (6) Where the Council receives further evidence relating to a referral where an Investigating Committee had previously determined that there was no case to answer in accordance with sub-paragraph (1)(a), the duly authorised officer may forward the referral to an Investigating Committee in accordance with Rule 6. This further evidence may consist of a criminal offence committed by the registered person.

Voluntary Reprimand and Voluntary Prohibition

- 9- (1) Where an Investigating Committee forwards a referral to a Fitness to Practise Committee on the grounds that a registered person has a case to answer, subject to paragraphs (2) and (3) below, a duly authorised officer may make a recommendation to a Fitness to Practise Committee that the case be disposed of without a hearing by Voluntary Reprimand or Voluntary Prohibition.
- (2) A recommendation for a Voluntary Reprimand or Voluntary Prohibition shall only be made to a Fitness to Practise Committee where the referral meets the following minimum criteria, that:
 - (a) the duly authorised officer is satisfied that relevant and appropriate facts relating to the referral have been gathered;
 - (b) the registered person fully admits all of the alleged facts against him or her, as set out by the Council; and
 - (c) the registered person has been provided with and signs an agreed statement of facts; and
 - (d) the registered person fully accepts that the admitted facts of the allegation(s) against him or her amount to unacceptable professional conduct, serious professional incompetence or a conviction of a relevant offence, or a combination of these, as the case may be; and
 - (e) in the view of the duly authorised officer, the interests of justice and fairness can be met without a hearing; and

- (f) the Council's responsibilities to safeguard the interests of learners and the public, and to maintain public trust and confidence in the education workforce can be duly discharged with a Voluntary Reprimand or Voluntary Prohibition, given the facts of the particular referral.
- (3) Should the duly authorised officer consider an invite to a Voluntary Reprimand or Voluntary Prohibition appropriate, he or she will:
- (a) send the invite by special delivery to the registered person's address as recorded on the Register, or such other latest address known to the Council specifying whether a Voluntary Reprimand or Voluntary Prohibition is proposed; and
 - (b) inform the registered person that he or she is not required to agree to a Voluntary Reprimand or Voluntary Prohibition (as the case may be) but that such a recommendation might be made if the criteria specified in paragraph (2) apply;
 - (c) invite the registered person to respond in writing to the proposal for a Voluntary Reprimand or Voluntary Prohibition, as the case may be;
 - (d) inform the registered person that the effect of the Reprimand will be the same as if it had been imposed by a Fitness to Practise Committee in accordance with Rule 26;
 - (e) inform the registered person that, in the case of a Voluntary Prohibition:
 - (i) his or her name will be removed from the Register; and
 - (ii) he or she may not make an application for eligibility for restoration to the Register for a minimum period of 2 years from the date on which the registered person's name is removed from the Register (or such longer period as may be specified by a Fitness to Practise Committee); and
 - (iii) he or she is otherwise bound by the terms of a Prohibition Order, as if it had been imposed by a Fitness to Practise Committee in accordance with Rule 26; and
 - (f) require the registered person to respond to the invite in writing within 21 working days of it being made.
- (4) Should the registered person not provide his or her consent, or not respond to the invite within 21 working days, the referral shall be forwarded to a Fitness to Practise Committee for hearing in accordance with Rule 11.
- (5) Should the registered person provide his or her consent, and the duly authorised officer is satisfied as to the registered person's response, the recommendation of the duly authorised officer of a Voluntary Reprimand or Voluntary Prohibition as the case may be shall be considered by a Fitness to Practise Committee in accordance with Rule 10.
- (6) Where paragraph 5 applies, the duly authorised officer shall send a Notice of Meeting in accordance with paragraph (2) by special delivery to the registered person's last known address as

recorded on the Register or such other latest address known to the Council, giving him or her at least 3 weeks' notice of the meeting

(7) The Notice of Meeting shall:

- (a) specify the date of the meeting and the identity of the members of the Committee;
- (b) specify the allegations and the particulars of the allegations against the registered person;
- (c) have annexed to it a bundle including:
 - (i) a copy of the agreed statement of facts;
 - (ii) the registered person's admission that the agreed facts amount to unacceptable professional conduct, serious professional incompetence and/or conviction of a relevant offence;
 - (iii) the registered person's written consent to Voluntary Reprimand or Voluntary Prohibition, as the case may be.
- (d) have annexed to it a copy of these Procedures and Rules.

Meeting of Fitness to Practise Committee

10 - (1) Subject to the provisions of this Rule and Voting and decision making (Annex), the procedure at the meeting shall be determined at the discretion of the Chair.

- (2) The meeting of the Fitness to Practise Committee will take place in private and the Committee will make a determination based on the written material alone without the attendance of the registered person.
- (3) The Committee shall be advised by a legal adviser.
- (4) At any stage of the meeting, the Committee may decide that, in the public interest and/or in the interests of justice, the allegation should be considered at a hearing. The referral shall be forwarded to a Fitness to Practise Committee for hearing in accordance with Rule 11.
- (5) The Committee will determine whether to
 - (a) approve the recommendation;
 - (b) decline the recommendation;
 - (c) adjourn to request further evidence / documents before making a determination
- (6) Where the Committee determines to approve a Voluntary Prohibition, the Committee shall also specify the period (which shall be not less than 2 years beginning with the date on which the order takes effect) before the end of which no application may be made by the registered person for a

determination that he or she is eligible to reapply for registration. A person wishing to be readmitted to the Register following a prohibition order must apply to the Council for a determination in accordance with Rule 32.

- (7) Should a Fitness to Practise Committee approve the duly authorised officer's recommendation under Rule 9(4), the decision of the Committee shall be announced in public either on the date of the meeting of the Committee, or on a later date. The registered person shall also be notified of the date and time and location of the announcement of the decision if it is to be announced at a later date
- (8) Should the Committee approve the recommendation, the referral shall be considered concluded.
- (9) Should the Committee decline to approve the duly authorised officer's recommendation the case will be remitted for hearing to a newly-constituted Fitness to Practise Committee.
- (10) Rules 26 to 28 shall apply to a Voluntary Reprimand and a Voluntary Prohibition as those Rules apply to disciplinary orders made following a hearing before a Fitness to Practise Committee.

4.0 Fitness to Practise Committee

11- (1) A Fitness to Practise Committee shall:

- (a) determine referrals received from an Investigating Committee where the registered person was found to have a case to answer in relation to:
 - (i) unacceptable professional conduct;
 - (ii) serious professional incompetence; or
 - (iii) conviction of a relevant offence.
- (b) consider whether to make a disciplinary order in relation to that registered person, and if it considers that such an order should be made, to make such an order where a Fitness to Practise Committee finds he or she guilty of unacceptable professional conduct, serious professional incompetence, or to have been convicted of a relevant offence
- (c) In respect of a recommendation made by the duly authorised officer under Rule 9(5):
 - (i) approve or decline the recommendation;
 - (ii) request further evidence / documents before making a decision to allow a Voluntary Reprimand or Voluntary Prohibition.
- (d) determine applications under Regulation 37, 39 or 40 in the Regulations, or matters arising in relation to disciplinary orders under Regulation 38 or 41.

Notice of Proceedings

- 12-(1) Where a referral is forwarded to a Fitness to Practise Committee, the duly authorised officer shall send to the registered person a Notice of Proceedings in accordance with paragraph (2) by special delivery to his or her last known address as recorded on the Register, or such other latest address known to the Council, giving him or her at least eight weeks' notice of the hearing
- (2) The Notice of Proceedings shall:
- (a) specify where the Committee hearing is to take place and the identity of the members of the Committee;
 - (b) specify the time and date of the hearing, which shall not be less than eight weeks after the day the Notice was sent to the registered person;
 - (c) specify the allegations and the particulars of the allegations against the registered person;
 - (d) specify the witnesses, if any, the presenting officer proposes to call to give evidence at the hearing;
 - (e) have annexed to it the case bundle;
 - (f) have annexed to it a copy of these Procedures and Rules.
- (3) The duly authorised officer shall send a copy of the Notice of Proceedings, as provided in paragraph (2), to the employer or agent of the registered person at the time the referral being heard arose, and to any current employer or agent.

Response to the Notice of Proceedings

- 13-(1) The registered person shall, within three weeks of the date of the Notice of Proceedings, provide the Council with written responses to the following enquiries, namely whether he or she:
- (a) has, or knows of any reason why the hearing or part of it shall not be held in public;
 - (b) intends to appear in person and/or to be represented at the hearing and if so,
 - confirm whether or not the registered person intends to give evidence. If so, to confirm whether they intend to give evidence as to the facts, and/or evidence in mitigation;
 - provide the Council with the name and address of the registered person's representative. If the registered person intends to be represented, to also confirm whether he or she would wish documentation relating to the proceedings to be sent to them and/or to the representative.

- (c) admits the alleged facts and, if so, whether the allegation of unacceptable professional conduct, serious professional incompetence, and/or a conviction of a relevant offence, as the case may be, is admitted;
 - (d) intends to call witnesses; if so, to provide their names and contact details; and
 - (e) knows of any reason why a conflict of interest may arise in relation to any member of the Committee, and if so, what the reason is.
- (2) The registered person shall, in accordance with this Rule and Rule 15, and at least four weeks prior to the hearing, provide the Council with any written submission or such documents as he or she considers relevant, including any witness statements.

Representations to the Committee

- 14-(1) The duly authorised officer shall appoint a presenting officer following a decision to forward a referral to a Fitness to Practise Committee
- (2) The presenting officer shall present the Council's case before a Fitness to Practise Committee, and such a person may be an officer of the Council or other representative.
 - (3) The registered person against whom an allegation is made may appear in person or be represented by any person of his or her choice, including a legal representative.

Service and inspection of evidence

- 15- (1) Subject to paragraph (2), where the presenting officer or the registered person or his or her representative wish to rely upon any document, including a witness statement, they shall submit to the Council a copy of the document concerned at least four weeks prior to the hearing in accordance with Rule 13(2).
- (2) Where either the presenting officer or the registered person or his or her representative wish to rely at the hearing upon documents or other physical evidence and it is not appropriate or practicable for that evidence to be copied or sent by post, the party in possession of the document(s) or other physical evidence concerned shall, at least four weeks prior to the hearing, provide the Council with:
 - (a) a description of the evidence;
 - (b) an explanation of the reason why it is not practicable or appropriate for the evidence or a copy to be sent in accordance with paragraph (1); and
 - (c) details of the arrangements that may be made for inspection of that evidence by the other party.
 - (3) If the presenting officer or the registered person or his or her representative wish to rely at the hearing upon any document not served in accordance with this Rule, then that document may only be admitted at the discretion of the Committee. In exercising this discretion, the Committee may

waive or amend the periods of time set out in the Rules for disclosure of documents, but only if it is satisfied that to admit the document is appropriate, and in the interests of a fair hearing.

Absence of the registered person at the hearing

16-(1) Where the registered person does not attend and is not represented at a hearing, the Chair shall:

- (a) request evidence from the presenting officer that the Notice of Proceedings has been sent to the registered person in compliance with Rule 12; and
 - (b) enquire with the presenting officer whether any reasons for the registered person's absence have been communicated to the duly authorised officer.
- (2) Where the Committee is not satisfied that Rule 12 has been complied with, the Committee may adjourn the hearing.
- (3) Where the Committee is satisfied that Rule 12 has been complied with, then after taking into consideration any representations by the presenting officer and any written representations made by or on behalf of the registered person, and taking advice from the legal adviser, the Committee may:
- (a) proceed with the hearing in the absence of the registered person; or
 - (b) adjourn the hearing.

Witnesses

17-(1) The Council may require any person to attend and give evidence, or to produce documents or other material evidence at any hearing.

- (2) Witnesses must take an oath or affirmation before giving evidence. In doing so, the witness makes a solemn promise as to the truth of their evidence.
- (3) Except as may be determined by the Committee, witnesses may not be present as observers at the hearing until they have completed giving evidence and been formally released by the Chair.
- (4) Witnesses may be recalled at the discretion of the Committee.
- (5) The Council may make payment of:
 - (a) reasonable expenses;
 - (b) reasonable costs of employing a replacement education practitioner,in relation to witnesses called by a registered person or the presenting officer.

- (6) The duly authorised officer may, where a witness for the Council refuses, or intentionally fails to attend or produce a document material to a case, obtain a witness summons by way of a Court Order.

Children and vulnerable witnesses

- 18-(1) Where a child or vulnerable witness gives evidence, then the Committee that hears the case may adopt such measures as they consider necessary to safeguard the interests of the child or vulnerable witness which may include, but shall not be limited to:
- (a) the use of a video link or screen;
 - (b) the use of pre-recorded evidence as the evidence in chief of the witness, provided always that such witness is available at the hearing for questioning;
 - (c) the use of interpreters (including signers and translators); and
 - (d) the hearing of evidence by the Committee in private.
- (2) The Chair of the Committee may direct that a child or vulnerable witness is not referred to by name during a hearing regardless of whether he or she is called to give evidence at the hearing.

Language

- 19-(1) A registered person in relation to whom a referral has been made may make a written request for the hearing to be conducted (all or in part) in Welsh.
- (2) Where the registered person or a witness wishes to give evidence in Welsh, he or she shall be permitted to do so provided that at least 21 days' notice of that request has been given to the Council.

Referral to another Committee

- 20- (1) Where, prior to the first day of a hearing before a Fitness to Practise Committee, or before such a Committee makes its final decision, the duly authorised officer may refer the matter:
- (a) back to an Investigating Committee where the registered person or his or her representative, or the presenting officer, submits to the Council further evidence or information which, in the view of the duly authorised officer, may have caused the Investigating Committee to consider such further evidence or information as relevant to the determination to forward the referral for hearing;
 - (b) to a differently constituted Fitness to Practise Committee, where it appears that there has been a breach in relation to Committee membership or of natural justice (Annex).
- (2) Where a case is referred to another Committee under paragraph (1)(a) or (1)(b), the duly authorised officer shall inform the parties accordingly.

Standard and burden of proof

- 21- (1) The standard of proof applied in these proceedings is the civil standard, 'on the balance of probabilities'.
- (2) The burden of proof shall rest with the presenting officer.
- (3) Paragraph (2) shall not apply to any application made by a person under Rule 30 and Rule 32.

Procedure at hearing

- 22- (1) Subject to the provisions of this Rule and Voting and decision making (Annex), the procedure at the hearing shall be determined at the discretion of the Chair.
- (2) The Chair shall ensure the members of the Committee present are introduced, confirm the identity of the registered person against whom the allegations are made, and of any representative and ask for confirmation that there are no conflicts of interest.
- (3) The Chair shall enquire if there are any preliminary applications from the registered person and the presenting officer.
- (4) The duly authorised officer, as directed by the Chair, shall read the allegations against the registered person. The Chair shall enquire of the registered person:
- (a) whether the facts of the allegations are admitted; and, if so,
- (b) whether he or she admits unacceptable professional conduct, serious professional incompetence and/or that they have been convicted of a relevant offence, as the case may be.
- (5) The presenting officer shall be permitted to make an opening statement about the allegations and the registered person or his or her representative shall have the opportunity to reply.
- (6) The presenting officer and the registered person, or his or her representative, may present relevant evidence, including calling witnesses, relating to the facts of the allegations and whether those facts amount to unacceptable professional conduct, serious professional incompetence, and/or a conviction of a relevant offence, as the case may be.
- (7) The presenting officer, the registered person or his or her representative and members of the Committee may question any witness called, including the registered person if he or she gives evidence.
- (8) The Committee will allow the presenting officer and the registered person, or his or her representative, an opportunity to sum up and make final summations.
- (9) The Committee shall determine whether the facts of the allegations which are not admitted have been proved.

- (10) The Committee shall determine whether or not it is satisfied that any facts proved amount to unacceptable professional conduct, serious professional incompetence and/or a conviction of a relevant offence, as the case may be, regardless of whether admissions are made by the registered person in that respect.
- (11) The Committee may adjourn the proceedings at any stage.
- (12) When making a determination under Rule 26, the Committee shall deliberate in private, and may deliberate in private in relation to any other matter.
- (13) Should the Committee find that unacceptable professional conduct, serious professional incompetence and/or a conviction of a relevant offence, as the case may be, has been established, it:
 - (a) will provide the registered person or the teacher's representative, if present, with a further final opportunity to submit evidence in relation to their previous history, character or mitigating circumstances.
 - (b) may take into account any disciplinary order made in relation to him or her by the Council, or by any other relevant body.
- (14) Subject to the requirements of a fair hearing, in the interests of justice the Committee may amend an allegation or the particulars of an allegation at any time prior to making its findings of fact.
- (15) Before amending an allegation or the particulars of an allegation in accordance with paragraph (14), the Committee shall first consider any representations by the presenting officer and by or on behalf of the registered person, and take advice from the legal adviser.
- (16) The outcome of the hearing shall be announced in public.

Public or private hearing

- 23 - (1) The Committee may exclude the public from a hearing or any part of a hearing:
- (a) where it appears to the Committee necessary in the interests of justice to exclude the public;
 - (b) where the registered person against whom disciplinary proceedings are being taken makes a written request that the hearing should be in private, and, given the reasons for the request, the Committee does not consider it to be contrary to the public interest to hold the hearing in private; or
 - (c) where it is necessary to protect the interests of children or vulnerable witnesses.
- (2) Where an application is made for the hearing to be in private under Rule 22(3), the Committee shall hear the application in private, but shall announce the decision in public.

Postponement, adjournment and resumption of hearing

- 24-(1) Prior to the first day of a hearing before the Fitness to Practise Committee, the duly authorised officer may postpone the hearing of his or her own motion, or upon application by a party to the proceedings, provided both parties have been given an opportunity to make representations before the decision is made. The decision to postpone a hearing shall be confirmed in writing with the registered person, copied to his or her representative, and shall include reasons for the decision. The duly authorised officer shall, as soon as is practicable, notify the parties of the date of the rescheduled hearing.
- (2) Where a Committee adjourns a hearing under Rule 22(11) and determines to resume the hearing, the duly authorised officer shall notify the registered person, and his or her representative in writing, specifying the date of the rescheduled hearing.

Functions of the Committee at hearings

- 25- (1) A Fitness to Practise Committee shall not decline jurisdiction to hear or determine a referral by reason only of any defect or deficiency in any procedure which may, or otherwise, be required to be observed:
- (a) prior to the making of an allegation to the Council, under any requirement otherwise than under the *Disciplinary Procedures and Rules 2015* of the Council or the provisions of the Act or the Regulations; or
 - (b) by an employer or agent or any other person under the registered person's terms of employment or contract.

Decision

- 26-(1) The Fitness to Practise Committee, in making its decision in accordance with Voting and decision making (Annex) shall:
- (a) determine whether the facts of the case, all or in part, are proved;
 - (b) if the facts are admitted or proved, determine whether those facts amount to unacceptable professional conduct, serious professional incompetence and/or a conviction of a relevant offence, as the case may be.
- (2) The Committee may review its findings of fact if it is satisfied it is necessary to do so in order to correct an obvious mistake, or to avoid a miscarriage of justice, and before a decision is made as to whether to impose a disciplinary order.
- (3) If the Committee determines that the facts amount to unacceptable professional conduct, serious professional incompetence and/or a conviction of a relevant offence, it shall consider the previous history and character of the registered teacher and any mitigating circumstances.

(4) The Committee shall determine whether or not to make a disciplinary order against the registered person, and, if applicable, specify the terms of any disciplinary order. This will take one of the following forms:

- a Reprimand;
- a Conditional Registration Order. This shall specify all the conditions relevant to the registered person's employment as a practitioner with which he or she is required to comply, and in relation to each condition, either the period for which it has effect, or that it has effect without limit of time (as the case may be);
- a Suspension Order. This shall specify the period (not exceeding two years) at the end of which the person again becomes eligible to re-apply for registration. A Suspension Order may specify conditions to be complied with by the person to whom the order relates which must be complied with before he or she can become eligible again to apply for registration. A condition specified in a Suspension Order has effect for such period as may be specified, or without limit of time.

Once the Suspension Order has expired, subject to any conditions being met, the person concerned must re-apply for registration;

- a Prohibition Order. This shall specify the period (which shall not be less than two years beginning with the date on which the order takes effect) before the end of which no application may be made by the person for a determination that he or she is eligible to re-apply for registration. A person wishing to be readmitted to the Register following a Prohibition Order must apply to the Council for a determination in compliance with Rule 32.

Should a Committee grant a Rule 32 application for eligibility, the person concerned must re-apply for registration. In doing so, he or she shall be subject to pre-registration checks required by the Council at that particular time.

(5) In deciding to impose a disciplinary order, the Committee may also determine to apply such an order to more than one category of registration, depending on which categories the person is registered in at that time.

(6) The outcome of the hearing shall be announced in public.

Notification of decision

27-(1) If a disciplinary order is considered appropriate, the duly authorised officer shall, at the direction of the Committee:

- (a) serve a Notice of the disciplinary order on the person in relation to whom it is made containing the information set out in Regulation 36(3) of the Regulations; and

- (b) serve Notice of the order on the employer or agent of the registered person at the time the referral was made, and to any current and/or previous employer or agent as may be the case,

within a period of two weeks from the day the decision was given in public.

(2) The written decision shall be accompanied by a statement of:

- (a) the allegations;
- (b) the findings of fact; and
- (c) the reasons of the Committee.

(3) Where, following the determination of a referral by a Committee it decides, for exceptional reasons, not to make a disciplinary order in relation to a registered person, the Committee shall notify the registered person and the registered person's current employer or agent, or previous employer or agent, of its decision. This notification shall state the Committee's reasons for not making a disciplinary order, and whether or not it decided that the case against him or her was proved or not.

(4) Where a Committee does not find the facts against a registered person proved, the Council shall, at the registered person's request, publish a statement to that effect.

Publication

28- (1) The Council must publish the information set out in paragraph (2) in relation to a disciplinary order, subject to the exception in paragraph (3):

- (a) on a website which it maintains on the internet for the period for which the order is to have effect or for a period of six months starting on the date on which the order is posted; or
- (b) in such other manner as it sees fit.

(2) The information to be published is:

- (a) the name of the person in relation to whom the order is made, and the name of the school or institution within the further or higher education sector at which the person was last employed, or where the person was last employed by a local authority as a registered person otherwise than at a school or institution within the further or higher education sector, the name of the local authority;
- (b) the type of disciplinary order; and
- (c) the date on which the disciplinary order was made and takes effect; and

- (d) the period for which the disciplinary order was made and takes effect (where specified); and
 - (e) whether the person was found to have been guilty of unacceptable professional conduct, serious professional incompetence, and/or a relevant offence; and
 - (f) where the person was found to have been convicted of a relevant offence, the nature and date of the conviction in question; or
 - (g) where the person was found to have received a criminal sanction, other than a conviction, and to have been guilty of unacceptable professional conduct in that respect, the nature and date of that sanction; or
 - (h) where the person was found to have been guilty of unacceptable professional conduct or serious professional incompetence, an indication of the nature of the misconduct or incompetence which led to the making of the order.
- (3) The duty to publish the information in paragraph (2)(a) does not apply where in the opinion of the Council not publishing appears necessary:
- (a) in the interests of justice; or
 - (b) to protect the interests of children

Recording details of disciplinary orders

29-(1) The Council shall record against a registered person's name on the Register details of any disciplinary orders made.

Application to vary or revoke a condition in a conditional registration order or a suspension order which specifies conditions

- 30-(1) A person in relation to whom a conditional registration order or a suspension order which specifies conditions has been made may apply to the Council for variation or revocation of any condition specified in the order.
- (2) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the person seeks to have any condition specified in the order varied or revoked, and must be accompanied by every document relied upon in support of the application.
 - (3) Where a person makes an application to vary or revoke an order, the Council shall conduct a hearing in accordance with these Procedures and Rules.
 - (4) The duly authorised officer shall send to the person a Notice of Proceedings by special delivery to his or her last known registered address, as recorded on the Register, or such other latest address known to the Council which shall:

- (a) specify where the Committee hearing is to take place and the identity of the members of the Committee;
 - (b) specify the time and date of the hearing; and
 - (c) have annexed to it a copy of the Committee's decision at the hearing when the conditional registration order or suspension order was made.
- (5) In considering the application, these Procedures and Rules shall apply as appropriate given the Committee's role.
- (6) Where a conditional registration order or a suspension order which specifies conditions in respect of which an application is made under paragraph (1) was made by a Fitness to Practise Committee, the application shall be determined by another Fitness to Practise Committee which shall not include as a member any person who was a member of the Committee which made the order.
- (7) The outcome of the hearing shall be announced in public.
- (8) If an application to vary or revoke a condition specified in a disciplinary order is refused, no further application to vary or revoke a condition specified in that order may be made by the person within twelve calendar months of the date on which the original application was determined, or within such other time limit as the Committee shall determine.

Compliance with conditional registration orders and suspension orders which specify conditions

31-(1) Where a Committee has made a conditional registration order or a suspension order which specifies conditions in respect of a registered person, the Committee may require the duly authorised officer, at any time, to request from:

- (a) the person in respect of whom the order was made;
- (b) any person who is, at the time the request is made, an employer or agent employing him or her in the capacity of a education practitioner,

such relevant evidence as will enable the Council to determine whether the conditions of the order have been, or continue to be, complied with.

(2) Where:

- (a) the duly authorised officer receives information, and he or she is of the opinion that the conditions have not been complied with; or
- (b) the person fails to comply with a reasonable request made in accordance with paragraph (1),

the duly authorised officer shall refer the matter to a Fitness to Practise Committee which shall not include as a member any person who was a member of the Committee which made the order to

which the application relates. The Committee shall make a determination as to whether the person has failed to comply with the condition(s).

- (3) A Committee shall not make an order under this Rule without a further hearing in accordance with these Rules.
- (4) The duly authorised officer shall send to the person a Notice of Proceedings by special delivery to his or her registered address, as recorded on the Register, or such other latest address known to the Council which shall:
 - (a) specify where the Committee hearing is to take place and the identity of the members of the Committee;
 - (b) specify the time and date of the hearing; and
 - (c) have annexed to it the evidence given at the hearing when the conditional registration order or suspension order was made, together with a copy of the decision made; and
 - (d) specify the allegation in terms of sub-paragraphs 2(a) or 2(b) above.
- (5) In considering the alleged failure to comply with the condition(s), these Procedures and Rules shall apply as appropriate given the Committee's role.
- (6) A Fitness to Practise Committee may vary a condition or conditions where it considers it appropriate to do so.
- (7) Before varying a condition or conditions in accordance with paragraph (6), the Committee shall first consider any representations by the presenting officer and by or on behalf of the registered person, and take advice from the legal adviser.
- (8) Where a Fitness to Practise Committee is satisfied that a person against whom a conditional registration order or suspension order which specifies conditions has been made has failed to comply with any or all condition(s) of it, the Committee may make a suspension or prohibition order in relation to him or her.
- (9) The outcome of the hearing shall be announced in public.

Eligibility for registration following a prohibition order

- 32-(1) A person in relation to whom a prohibition order has been made may apply to the Council for a determination that he or she is eligible for registration under Regulation 40(1) of the Regulations.
- (2) An application under paragraph (1) shall be made in writing and shall specify the grounds on which the person seeks the determination, and shall be accompanied by every document relied upon in support of the application.
- (3) Where a person makes an application to the Council for a determination that they are eligible for registration, a Committee shall conduct a hearing in accordance with these Procedures and Rules.

- (4) The duly authorised officer shall send to the person a Notice of Proceedings by special delivery to his or her last known registered address, as recorded on the Register, or such other latest address known to the Council which shall:
 - (a) specify where the Committee hearing is to take place and the identity of the members of the Committee;
 - (b) specify the time and date of the hearing; and
 - (c) have annexed to it a copy of the evidence given, and the Committee's decision at the hearing when the prohibition order was made.
- (5) In considering the application, these Procedures and Rules shall apply as appropriate given the Committee's role.
- (6) The Committee, in making its decision, shall:
 - (a) satisfy itself as to the particulars supporting the application; and
 - (b) determine whether or not it is satisfied that the person:
 - (i) has been of good character since the prohibition order was made;
 - (ii) has demonstrated his or her willingness, and the ability to maintain in the future, 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;
 - (iii) has demonstrated that he or she is a suitable person to be readmitted to the Register.
- (7) An application under paragraph (1) shall be determined by a Fitness to Practise Committee which shall not include as a member any person who was a member of the Committee which made the order to which the application relates.
- (8) If the Committee is satisfied in relation to the matters set out in paragraph (6) above, it may determine that the person is eligible for registration. If this is the decision of the Committee, the person concerned must re-apply for registration.
- (9) The outcome of the hearing shall be announced in public.
- (10) If an application for a determination that the person is eligible for registration is refused, no further application for a determination that he or she is eligible for registration may be made by the person within twelve calendar months of the date on which the original application was determined, or within such longer time period as the Committee may decide.

Review of disciplinary orders

- 33-(1) A Fitness to Practise Committee may of its own motion at any time revoke a disciplinary order made by another Committee, where:
- (a) the only or main reason for making the order was that the person in relation to whom the order was made had been convicted of a relevant offence, and after the date the order was made, the conviction in question was quashed; or
 - (b) after the order was made, the Committee obtained evidence not considered by it before it made the order, and it is satisfied that if it had been aware of the evidence before it made the order, it would not have made it.
- (2) A Fitness to Practise Committee hearing a case under paragraph (1) shall not include as a member any person who was a member of the Committee which made the order.

Appeals

- 34-(1) Any person aggrieved by the decision of a Fitness to Practise Committee to impose a disciplinary order shall have the right of appeal against the order to the High Court within 28 days from the date on which Notice of the order is served on him or her.

Disciplinary orders made by other bodies

- 35-(1) A disciplinary order made by any other General Teaching Council, or a Committee of those Councils in the United Kingdom, or prohibition imposed by the Secretary of State, or a Barring made by the DBS shall apply in relation to Wales as it applies in relation to those countries.

Constitution and meetings

Committee membership

- (1) The following points relate to an Investigating Committee and Fitness to Practise Committee.
- (2) A Committee shall consist of a minimum of three persons and a maximum of five 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 disciplinary proceedings.
- (3) In constituting a Committee, the Council shall have regard to equality and diversity and its Welsh Language Scheme.
- (4) Where a Committee is considering a referral and a member:
 - (a) is unwilling; or
 - (b) is unable to remain a member,and there is no longer a quorum, the referral shall be adjourned and a new Committee appointed to investigate or hear the referral.
- (5) A person who is a member of the Investigating Committee investigating a referral shall not be appointed as a member of any subsequent Fitness to Practise Committee which hears that referral.
- (6) Where, in considering a referral, any member of a Committee considers that a fair-minded and informed observer could perceive 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 referral.
- (7) In pursuance of paragraph (6), where a member of the Committee belongs to the same union or professional association as the registered person, this shall not in itself constitute a conflict of interest for the purposes of this Rule.

Chairs

- (1) Each 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.
- (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 registered person.

Legal adviser or other professional adviser

- (1) The Council shall make available to any Committee constituted under these Procedures and 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 or a hearing.
- (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:
 - (a) in the case of an Investigating Committee, make a written declaration in relation to the nature of the advice the Committee sought and received;
 - (b) in the case of a Fitness to Practise Committee, make a written declaration in relation to the nature of the advice the Committee sought and received, and declare in public 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 referral in relation to which the Committee seeks advice in any capacity other than as a legal adviser or other professional adviser.