

Guidance on the Framing of Conditions (Conditional Registration Orders and Suspension Orders which specify conditions)

1 Introduction

The purpose of this guidance is to assist Chairs and members of Fitness to Practise Committees in framing conditions where it has decided a Conditional Registration Order or a Suspension Order (which specifies conditions) should be imposed upon a registered person's registration.

A key difference for Fitness to Practise Committees, as oppose to the former Professional Conduct and Competence Committees of the General Teaching EWC for Wales (GTCW), is to decide whether or not the specific Order should be applied to not only the category of registration in which the person was practising at the time of the referral to the Education Workforce Council (EWC), but also to any other categories in which the person is registered at the time of the Committee's decision. This will be particularly important where conditions are to be applied to the Order.

Committee members are reminded that the Guidance on the Framing of Conditions is 'guidance only'. Committee members will need to use their own judgement in deciding whether or not to impose conditions since every case has the potential to be different and will, therefore, need to be treated on its own unique facts and merits. Similarly, registered persons and others should not attempt to 'pitch' what conditions might be applied in any particular case based on the contents of this guidance.

The EWC's Guidance on the Framing of Conditions will be continuously reviewed and re-issued.

2 Structure of this guidance

This guidance is set out as follows:

- **Key principles in framing:** Specific guidance a Committee should follow when putting together a Conditional Registration Order, or a Suspension Order which specifies conditions, to ensure all relevant information is included.
- **Monitoring:** A brief explanation of how the EWC monitors the conditions Fitness to Practise Committees set.
- **Conditions Bank** (Annex A): The bank contains *suggested* wording for use by Committees to address all elements described in Section 3.

3 Key principles in framing

3.1 Principle considerations for a Committee *before* formulating conditions of a Conditional Registration Order or Suspension Order:

A Committee should carefully consider the following before composing conditions:

- (a) **Purpose of a condition:** a Committee must be confident that any conditions it sets will enable an education practitioner to take steps to remedy any deficiencies in his or her conduct or competence which a Committee has found, whilst placing restrictions upon them to protect learners, the public and the education professions.

The practitioner against whom the findings have been made **must demonstrate a potential and willingness to respond positively to conditions, and must show sufficient insight to suggest that he or she will be able to comply with the conditions.**

The conditions set should **have regard to the interests of learners, the public and the education professions.** The conditions should not specifically seek to be punitive. However, it is acknowledged that conditions may have a punitive effect.

- (b) **Categories of registration:** As set out above, a key difference for Fitness to Practise Committees, as oppose to the former Professional Conduct and Competence Committees, is to decide whether or not the specific Order should be applied to only the category of registration in which the person was practising at the time of the referral to the EWC, or whether it should apply to other categories in which the person is registered at the time of the Committee's decision. This will be particularly important where conditions are to be applied to the Order.

Should conditions be imposed where an Order is to apply to more than one category of registration, the Committee should carefully consider whether or not the conditions need to be adapted to cover the additional categories of registration, in order to address the impact of the conduct or incompetence found on those areas.

- (c) **Registration:** a Committee should bear in mind that if a practitioner is not registered at the time of its decision, or not carrying out the 'specified work' of a teacher, this does not prevent it from imposing a Conditional Registration Order or a Suspension Order with conditions.

However, it will need to give the matter of registration careful consideration as it is the EWC's experience that unregistered persons either do not attempt to comply with conditions set, or are not in a position to do so. If the person is not currently registered, the Committee may consider that, in the absence of clear, positive evidence of a willingness to comply with conditions on future registration, such conditions are unlikely to be met.

Where conditions are imposed and the person is not registered at that time, the Committee should ensure the practitioner is aware, by the way the Order is framed, that should he or she re-register with the EWC in future, any conditions set will apply from the date of re-registration.

- (d) **Objectives:** a Committee should be confident that the conditions it is to set will make clear to the practitioner what he or she needs to do, or not do, in order to comply with the conditions. Any conditions must be framed in such a way as to allow the person to meet them.
- (e) **Parameters:** a Committee should think carefully before setting parameters within which a practitioner is required by a Conditional Registration Order or Suspension Order to behave professionally/in their private lives where such required behaviour would, in normal circumstances, be a minimum standard expected of a registered person. A Committee should also think what period is to apply in these circumstances.

For example:

- (i) if Committee members agree that requiring a practitioner to abide by the law is an important condition to impose in the interests of learners, the public and the education professions given its findings, should it then apply this requirement for the period of the Order only (for example, 12 months), or 'without limit of time'?
- (ii) if Committee members find a practitioner guilty of unacceptable professional conduct as a result of him or her accessing and viewing (adult) pornographic websites at school, in the interests of learners, the public and the education professions, should a Committee require that he or she adheres to the school internet usage policy for the period of the Order only (for example, 12 months), or 'without limit of time'?

- (f) **Monitoring:** a Committee must ensure conditions are framed in such a way as to allow the EWC to monitor them effectively.

For example:

- (i) if a Committee sets a restriction that a practitioner is not to come into contact with pupils outside school unless with the permission of a senior manager of the school, the condition will be reduced to an instruction not amenable to monitoring if the Committee does not explain how and by whom this will be monitored.
- (ii) if a Committee sets a condition that a practitioner is to be monitored over a 12 month period for abstinence from alcohol, the condition will not be amenable to monitoring by the EWC if the Committee does not explain how and by whom this monitoring will be undertaken, and what evidence will be required.

3.2 **Standard information to be included in a Conditional Registration Order or Suspension Order which specifies conditions**

The following standard information must be included in **all** orders which specify conditions.

- (a) **Date of effect:** a Committee must make clear from which date the Order and its conditions are to apply, either:
- (i) with immediate effect; or
 - (ii) from the person's date of re-registration with the EWC (if he or she is unregistered at the time of the Committee's decision). In this instance, the practitioner should be made aware in the way the Order and conditions are framed that should he or she re-register with the EWC in future, any conditions set will apply from the date of registration. **The Order itself will, however, take effect immediately.**
- (b) **Duration:** a Committee must make clear for how long the Order and its conditions are to apply:
- (i) without limit of time (permanently).

This duration can only apply to a Conditional Registration Order, and the conditions of this Order.
Note: if a Committee does not specify for how long the Order is to apply, it will apply permanently.

A Suspension Order can only apply for a maximum of 2 years.

A condition imposed 'without limit' by a Committee in relation to a Suspension Order means the condition can be completed 'at any time' during the period of the Suspension Order, rather than within a specified, defined period. It does not mean the condition will apply permanently.

- (ii) for a duration to be determined by a Committee.

A Committee must state that the Order will only be removed from a particular person's registration if all conditions stipulated in it are complied with *within* that time period set. If the conditions are not complied with within that time period, Rule 33 may be invoked.

A Committee should be careful not to specify the end date of an Order if the practitioner is not registered at the time of its decision. Instead, the Committee should specify for how long the Order is to apply should he or she re-register with the EWC.

- (c) **Transferability:** a Committee must make clear that, should the particular practitioner:
- (i) start a new, for example, teaching post which requires registration with the EWC during the period of the Order; or
 - (ii) move from one, for example, teaching post to another teaching post which requires registration with the EWC during the period of the Order,

he or she must:

- (iii) inform his or her prospective employer or agent of the Order and the conditions attached to it *before* accepting an appointment (ideally by providing a copy of the Notice of Decision itself). For this purpose, 'employer' is the school, Governing Body and/or Local Authority or agency, or Further Education institution;
- (iv) notify the EWC's duly authorised officer in writing in order that the EWC can check that any monitoring is continuing with the new employer or agent.

3.3 Standard information to be included in conditions which involve training and/or a requirement for progress reports to be provided to the EWC:

In addition, the following standard information must be included in **all** orders which require training to be undertaken and/or reports to be provided to the EWC to evidence compliance.

- (d) **Training:** a Committee must be reasonably confident, where possible, the course exists at the time it imposes the Order, and must make clear:
- (i) the purpose of the training;
 - (ii) that it is the responsibility of the practitioner to identify, not the EWC, *if* the Committee are unable to suggest a training provider and/or appropriate course; and
 - (iii) that it must first be approved by the duly authorised officer before being undertaken; and
 - (iv) who shall be responsible for the cost of the training (the practitioner in most circumstances);
 - (v) by when such training needs to be completed.
- (e) **Monitoring.** A Committee must identify:
- (i) the purpose of the monitoring. For example, to ensure the practitioner is punctual, is adhering to the school's internet usage policy or is responding positively to alcohol or drugs rehabilitation treatment; and
 - (ii) who shall be responsible for, and undertake the monitoring. For example, the Principal of a Further Education institution, IT Officer or substance misuse counsellor.
- (f) **Reports/evidence to the EWC** which flow from the requirement for 'Training' and 'Monitoring' conditions (as above). A Committee must identify:
- (i) what reports/evidence need to be provided to the EWC. For example, monitoring reports relating to IT usage or a practitioner's health, or evidence of completion of a training course; and
 - (ii) by whom such reports/evidence need to be compiled. For example, a school's IT Officer, GP or training provider; and

- (iii) when such reports/evidence need to be provided. For example, at 3 monthly / 6 monthly / 12 monthly intervals, or on the completion of a training course.

These variables need to be determined by the particular Committee depending on the particular case, but must be realistic and practical.

In addition, a Committee must make clear that:

- (iv) **the responsibility for submitting a report to the duly authorised officer will rest with the practitioner**, even if the report/evidence originates from a third party; and
- (v) any report/evidence required must be provided to the duly authorised officer for the practitioner's case, and potentially employers or agencies at the Committee's discretion.

4 Monitoring

The EWC has developed a policy of monitoring Conditional Registration Orders and Suspension Orders which specify conditions on:

- (a) an annual basis; or
- (b) such other time period as deemed appropriate given the duration of the particular order (for example, where the Order is 12 months or less in duration); or
- (c) such other time period as deemed appropriate given the frequency of the reporting required (for example, where a report is required by the EWC every 3 months).

Where the EWC receives information as a result of this monitoring, and the Committee Officer is of the opinion that the conditions set have not been complied with, or the practitioner fails to respond to the EWC's request for evidence of the compliance of conditions, the Committee Officer will refer the matter to a newly constituted Fitness to Practise Committee which will make a determination as to whether or not the practitioner has failed to comply with the condition(s) (Rule 33).

5 The Code of Professional Conduct and Practice for Registrants with the Education Workforce EWC

A Committee **may** refer to the Code in deciding to impose a Conditional Registration Order or Suspension Order which specifies conditions (see Indicative Sanctions Guidance). If it does so, it is not then envisaged a Committee would need to refer to the Code again when justifying the requirements of any conditions. This would be a judgment for the Committee based on its findings.

CONDITIONS BANK

1. REGISTERED PERSONS

ESSENTIAL for all orders with conditions attached, and where the person is registered

Element	Suggested wording	Relevant considerations
Date of effect (both order and conditions) 3.2(a)	The Committee has decided to impose a Conditional Registration Order/Suspension Order which specifies conditions upon your registration. This Order, and the conditions of this Order, are effective immediately.	<ul style="list-style-type: none"> ▪ The Committee should be clear that the person is registered before it drafts its decision. ▪ An Order would normally be effective from the date it is imposed.
Duration of Order (both order and conditions) 3.2(b)	This Order shall apply without limit of time. OR This Order shall apply for a period of 12 months. ----- This Order will be removed from your registration if all conditions stipulated in it are complied with within the time period specified.	<ul style="list-style-type: none"> ▪ The Committee should be clear that the person is registered before it drafts its decision. <p>A Suspension Order cannot apply 'without limit of time', but for a maximum of 2 years.</p> <ul style="list-style-type: none"> ▪ If a Committee does not specify for how long a Conditional Registration Order is to apply, it will apply permanently. ▪ Duration of the Order may or may not be tied in with timescales of the conditions. For example, requirements placed upon the registered person regarding training and/or monitoring may be shorter than the duration of the Order.

Transferability 3.2(c)	<p>Before accepting any offer of employment for which registration with the EWC is required during the period of this Order, you must provide your prospective employer (school, Local Authority, Governing Body or agency or Further Education institution) with a copy of the Notice of Decision in respect of this Order.</p> <p>You must inform the EWC's duly authorised officer in writing of any change in your employment for which registration with the EWC is required during the period of this Order, and as soon as a change occurs.</p>	<ul style="list-style-type: none"> It is important the Committee include in the text of the Order what may constitute an 'employer' so the registered person is clear who he or she needs to inform. Requiring a registered person to provide the employer with a copy of the Notice of Decision ensures the full text of the Order is known.
ESSENTIAL for <u>all orders</u> with TRAINING conditions attached, and where the person <u>is registered</u>		
Element	Suggested wording	Relevant considerations
Training/Reporting 3.3(d) and 3.3 (f)	<p>In order to improve your xxxx skills, you are required to undertake a training course in relation to xxxx, and complete it within xxx months/years of the effective date of this Order.</p> <p>OR</p> <p>In order to improve your xxxx skills, you are required to undertake a training course in relation to xxxx, and complete it by xxxx.</p> <p>-----</p> <p>It will be your responsibility to identify this training course, and you must first seek the written approval of the duly authorised officer before undertaking it. You will be responsible for the cost of this training.</p> <p>On completion of this training course, you must provide to the duly authorised officer written evidence of your successful completion of it. The written evidence must be provided to you by your training provider.</p>	<ul style="list-style-type: none"> A Committee must be reasonably confident, where possible, that a specific course exists at the time the Order is imposed. If not, the registered person may be prevented from complying with the Order set. A Committee may be in a position to identify a specific training course/training provider due to the specialism of a particular member. A Committee should consider the overall cost of the training required in terms of the registered person's ability to pay it, i.e., an excessive cost may limit his or her ability to comply with the condition. Reporting to the EWC may flow from a training condition put upon the registered person, or a monitoring condition put upon the registered person.

ESSENTIAL for all orders with MONITORING conditions attached, and where the person is registered

Element	Suggested wording	Relevant considerations
<p>Monitoring/Reporting 3.3(e) and 3.3(f)</p>	<p>You shall provide the duly authorised officer of the EWC with, at xxxx monthly/xxx yearly intervals, written reports from your Head Teacher/school's IT Officer/substance misuse counsellor which show you are punctual/adhering to the school's internet usage policy/responding positively to alcohol or drugs rehabilitation treatment.</p> <p>OR</p> <p>You shall provide the duly authorised officer of the EWC by xxxx a written report from your Head Teacher/school's IT Officer/substance misuse counsellor which shows you are punctual/adhering to the school's internet usage policy/responding positively to alcohol or drugs rehabilitation treatment.</p>	<ul style="list-style-type: none"> ▪ Reporting to the EWC may flow from a training condition put upon the registered person, or a monitoring condition put upon the registered person. ▪ The EWC would not recommend a Committee requires a number of reports to be provided in too close succession by a registered person as this may not give a true reflection of his or her progress whilst subject to monitoring.

2. UNREGISTERED PERSONS

ESSENTIAL for all orders with conditions attached, and where the person is unregistered

Element	Suggested wording	Relevant considerations
Date of effect (both order and conditions) 3.2(a)	<p>The Committee had decided to impose a Conditional Registration Order/Suspension Order which specifies conditions. This Order is effective immediately, but the conditions will only become effective if you re-register with the EWC, and on the date you re-register with the EWC.</p>	<ul style="list-style-type: none"> ▪ The Committee should be clear that the person is not registered before it drafts its decision.
Duration of Order (both order and conditions) 3.2(b)	<p>This Order shall apply without limit of time.</p> <p>OR</p> <p>This Order is effective immediately, but the conditions will only become effective if you re-register with the EWC, and on the date you re-register with the EWC.</p> <p>-----</p> <p>This Order will be removed from your registration if all conditions stipulated in it are complied with within the time period specified.</p>	<ul style="list-style-type: none"> ▪ The Committee should be clear that the person is not registered before it drafts its decision. ▪ A Suspension Order cannot apply ‘without limit’, but for a maximum of 2 years. ▪ If a Committee does not specify for how long a Conditional Registration Order is to apply if/when the teacher re-registers, it will apply permanently.
Transferability 3.2(c)	<p>Before accepting any offer of new employment as a person for which registration with the EWC is required, you must provide your prospective employer (school, Local Authority, Governing Body or agency or Further Education institution) with a copy of the Notice of Decision in respect of this Order.</p> <p>You must inform the EWC’s duly authorised officer in writing if you return to your profession and gain employment for which registration with the EWC is required, and as soon as you do so.</p>	<ul style="list-style-type: none"> ▪ It is important the Committee include in the text of the Order what may constitute an ‘employer’ so the person is clear who he or she needs to inform. ▪ Requiring a practitioner returning to their profession to provide a new employer with a copy of the Notice of Decision ensures the full text of the Order is known.

ESSENTIAL for all orders with TRAINING conditions attached, and where the person is unregistered

Element	Suggested wording	Relevant considerations
<p>Training/Reporting 3.3(d) and 3.3 (f)</p>	<p>In order to update and improve your xxxx skills, you are required to undertake a training course in relation to xxxx, and complete it within xxx months/years of the date of your re-registration with the EWC.</p> <p>-----</p> <p>It will be your responsibility to identify this training course, and you must first seek the written approval of the duly authorised officer before undertaking it. You will be responsible for the cost of this training.</p> <p>On completion of this training course, you must provide to the duly authorised officer written evidence of your successful completion of it. The written evidence must be provided to you by your training provider.</p>	<ul style="list-style-type: none"> ▪ Ideally, a Committee must be reasonably confident, where possible, that a specific course exists at the time the Order is imposed. However, where a person is not registered at the time of the Committee's decision, it will have no knowledge of if/when her or she will re-register. In such circumstances, it may be more practical to refer to a generic training course rather than a specific one. ▪ A Committee should consider the overall cost of the training required in terms of the person's ability to pay it, i.e., an excessive cost may limit his or her ability to comply with the condition. ▪ Reporting to the EWC may flow from a training condition put upon the practitioner, or a monitoring condition.

ESSENTIAL for all orders with TRAINING conditions attached, and where the person is unregistered

Element	Suggested wording	Relevant considerations
Monitoring/Reporting 3.3(e) and 3.3(f)	<p>You shall provide the duly authorised officer of the EWC with, at xxxx monthly/xxx yearly intervals, written reports from your Head Teacher/school's IT Officer/substance misuse counsellor which show you are punctual/adhering to the school's internet usage policy/responding positively to alcohol or drugs rehabilitation treatment from the date you gain employment for which registration with the EWC is required.</p> <p>OR</p> <p>You shall provide the duly authorised officer of the EWC within xxxx months of the date you gain employment for which registration with the EWC is required a written report from your Head Teacher/school's IT Officer/substance misuse counsellor which shows you are punctual/adhering to the school's internet usage policy/responding positively to alcohol or drugs rehabilitation treatment.</p>	<ul style="list-style-type: none"> ▪ Reporting to the EWC may flow from a training condition put upon the practitioner, or a monitoring condition. ▪ The EWC would not recommend a Committee require a number of reports to be provided in too close succession at the same time by a practitioner as this may not give a true reflection of his or her progress whilst subject to monitoring. This may be particularly relevant where he or she decides to return to their profession after a period of absence.