



## **Fitness to Practise**

### **Information for registered persons**

## I have received a letter from the Fitness to Practise Team. What does this mean?

Please read the letter carefully.

The letter explains a body – this could be an employer/agency – has made a referral to the Education Workforce Council ('the EWC ') about you. This is because you may have recently been convicted or cautioned by the police, or dismissed by an employer (be it a school, further education institution or any other relevant body which employs a youth worker, youth support worker or work based learning practitioner) for your conduct (behaviour inside or outside of an education establishment) or incompetence (ability as an education practitioner).

Certain bodies have a responsibility to make the EWC aware if you have been subject to criminal or disciplinary action because you are registered, and, particularly if you are a school teacher with Qualified Teacher Status (QTS), have access to children and young people.

In addition, any person or organisation can make a complaint about the conduct of an education practitioner registered with the EWC . The letter might confirm this, and attach the complaint it has received about you.

## Have I breached a 'standard' of behaviour or performance?

The EWC's role is to decide whether or not you have, and consequently whether or not your registration should be affected.

On 1 September 2019, the EWC published a revised Code of Professional Conduct and Practice with which the education workforce in Wales must comply. The Code is a guide to the standards that learners, parents and the public can expect of you, and helps you understand what others expect of you as a professional.

While 99.9% of registered persons fully comply with the Code, each year a minority of them breach it. The EWC has legal powers to investigate these breaches.

The Code does not cover all examples of standards which need to be met by education practitioners. It is a guide.

## What happens now? Do I need to do anything?

The EWC will consider the information received about you and decide what should happen next. This will depend on the seriousness of what is referred. It will also carry out other routine enquires and may ask for more information. For example, a Memorandum of Conviction from a Court, or further papers from the relevant employer.

The EWC will then send you a letter confirming its decision.

It might be that the EWC **decides not to take any action** because, for example, an offence is relatively minor.

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It might be that the EWC thinks your conduct or competence **needs to be looked at by an Investigating Committee** as it is more serious. If so, it will send you a Notice of Investigation. **The EWC strongly suggests you contact your union at this point so it can give you the guidance and support you will need.**

You should read the Notice carefully and respond to it by the date given.

An Investigating Committee will meet in private to decide whether or not you have 'a case to answer', that is, whether or not the threshold for 'unacceptable professional conduct', 'serious professional incompetence', or a conviction for 'a relevant offence' might be met.

### **Do I need to tell my current employer I'm being investigated?**

This is a decision for you with the guidance of your union, but you should note the Code requires registered persons to inform their current employer of any recordable criminal offence committed.

The EWC must inform your current or most recent employer of an investigation. However, where it decides to take no action, it can only tell your employer with your consent.

### **The Investigating Committee decided I have a case to answer. What happens now?**

A Fitness to Practice Committee will meet to decide whether or not your registration should be affected as a result of the information received about your conduct or incompetence. This will be a public hearing.

The EWC will send you a Notice of Proceedings which will set out the details of the hearing, and ask you to respond.

### **What happens at a Fitness to Practice Committee hearing?**

Following an examination of the facts, a Committee will decide **whether or not the facts are proved, whether the threshold for 'unacceptable professional conduct', 'serious professional incompetence', or a conviction for 'a relevant offence' has been met, and whether your registration should be affected** by one of the following disciplinary orders:

**Reprimand** (2 years) means your registration is not affected and you can continue practising.

**Conditional Registration Order** (any time period) means your registration is not affected as long as you meet the conditions set by the Committee.

**Suspension Order** (up to 2 years) means your registration is suspended. You will not be able to practise as a registered person for that period.

**Prohibition Order** means registration is removed and the person is not able to practise as a registered person. The Committee sets a time period (not less than 2 years) after which the person may apply to be re-considered as suitable for registration. Should no such application be successfully made, the Prohibition Order will remain in force.

More detailed information about what to expect at a hearing can be found in the 'Information for registered persons: giving evidence at a hearing' leaflet.

### I'm not a member of a union. What do I do?

The EWC strongly encourages you to seek professional advice and support from, for example, a union or professional association as soon as you receive a Notice of Investigation. If you are not a member of such an organisation, you should try and seek other professional advice, for example, from a solicitor or the Citizen's Advice Bureau before responding.

You should note legal funding is unlikely to be available to registered persons being investigated and heard under these procedures. You will not be able to claim your costs back from anyone else involved.

### About this leaflet

The information in this leaflet is a brief summary of the EWC's disciplinary procedures.

In all circumstances, *The Education Workforce Council (Main Functions)(Wales) Regulations 2015*, as amended, and the EWC's *Disciplinary Procedures and Rules 2021* take precedence. The Rules and other information about the EWC's regulatory role can be found at [www.ewc.wales](http://www.ewc.wales)

No general rules apply when deciding how serious the conduct or competence reported is, and whether or not an education practitioner's registration should be affected.

### Key contact

A named Officer of the Fitness to Practise Team will be your point of contact.

**Address**            **Fitness to Practise Team**, Education Workforce Council, 9<sup>th</sup> floor, Eastgate House, Newport Road, Cardiff, CF24 0AB

**Telephone**        029 2046 0099

**Fax number**       029 2047 5850

**Email**             [fitnesstopractise@ewc.wales](mailto:fitnesstopractise@ewc.wales)

Registered persons subject to these proceedings may submit forms, documents and make written representations to the EWC, in English or Welsh.

## Glossary

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| <b>The EWC</b>                           | The Education Workforce Council;  |
| <b>Disciplinary Order</b>                | A Reprimand, a Conditional Registration Order, a Suspension Order (with or without conditions) or a Prohibition Order;  |
| <b>DBS</b>                               | <p>The Disclosure and Barring Service. This was formed by the merger of the Independent Safeguarding Authority (ISA) and the Criminal Records Bureau (CRB) on 1<sup>st</sup> December 2012.</p> <p>The DBS is responsible for providing criminal records checks, and maintaining lists of persons unsuitable to work with children and vulnerable adults. To that end, it decides whether or not a child or vulnerable adult has been harmed, or is at risk of harm.</p> <p><b>The EWC is not able to look at information which involves harm, or risk of harm to children or vulnerable adults</b>, unless the DBS decides to take no action against an education practitioner referred to it.</p> <p>Any information received by the Council <b>at any time</b> which suggests the harm, or risk of harm to children or vulnerable adults will be sent to the DBS. This will slow down the progress of a case with the EWC.</p> |
| <b>Registered person</b>                 | A person for the time being registered, <i>or</i> a person who was registered at the time of any alleged conduct or offence on his or her part, <i>or</i> a person who has applied to be registered;  |
| <b>Relevant offence</b>                  | 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;   |
| <b>Serious professional incompetence</b> | Conduct which demonstrates a level of competence which falls seriously below that expected of a registered person, taking into account all the relevant circumstances;  |
| <b>Unacceptable professional conduct</b> | Conduct which falls short of the standard expected of a registered person.  |