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**Ymateb i Ymgynghoriad / Consultation Response**

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<b>Dyddiad / Date:</b>	05.05.21
<b>Pwnc / Subject:</b>	<b>Education Workforce Council (Interim Suspension Orders) (Additional Functions) (Wales) Order 2021</b>

**Background information about Estyn**

Estyn is the Office of Her Majesty's Inspectorate for Education and Training in Wales. As a Crown body, Estyn is independent of the Welsh Government.

Estyn's principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Learning and Skills Act 2000 and the Education Act 2005. In exercising its functions, Estyn must give regard to the:

- Quality of education and training in Wales;
- Extent to which education and training meets the needs of learners;
- Educational standards achieved by education and training providers in Wales;
- Quality of leadership and management of those education and training providers;
- Spiritual, moral, social and cultural development of learners; and,
- Contribution made to the well-being of learners.

Estyn's remit includes (but is not exclusive to) nurseries and non-maintained settings, primary schools, secondary schools, independent schools, pupil referrals units, further education, adult community learning, local government education services, work-based learning, and teacher education and training.

Estyn may give advice to the Assembly on any matter connected to education and training in Wales. To achieve excellence for learners, Estyn has set three strategic objectives:

- Provide accountability to service users on the quality and standards of education and training in Wales;
- Inform the development of national policy by the Welsh Government;
- Build capacity for improvement of the education and training system in Wales.

This response is not confidential.

## Response

### Introduction

Estyn supports the general principles of the revised Interim Suspension Order disciplinary procedures and rules which will be added as Section 5 to the existing disciplinary procedures and rules.

We agree that the proposed Section 5 of the revised disciplinary procedures and rules reflect the powers provided for in the Education Workforce Council Order 2021. We also recognise the importance of ensuring that the Welsh language is not treated less favourably than the English language when the Council undertakes initial hearings and reviews.

We have outlined a few further points for the Council to consider related to Section 5. These include:

- **39 (3)** If the registered person chooses to receive a notice of hearing by email, the duty authorised officer should request a read receipt as proof that the notice of hearing has been received by the registered person. This is in line with the alternative method of using special delivery through the registered person's address.
- **39(4) (d)** There is no mention that the registered person should be asked to confirm whether they wish the hearing to be conducted through the medium of English or Welsh.
- **40 (1)** The document clearly outlines the right for the committee to exclude the public from the hearing or any part of a hearing. This should be made clear when the registered person initially requests that the hearing be held in public rather than in private [4(d) (ii)]
- **42 (3) (b)** Should the committee be satisfied that rule 39 has been complied with, and in the absence of the registered person, it is unclear why the committee might choose to adjourn the hearing.
- **44(3)** It is not clear who makes the decision whether or not publishing the Interim Suspension Order's information on the Education Workforce Council's maintained website appears necessary.
- **45 (6)** Can the members of the review hearing committee be the same people as the original committee who undertook the initial hearing?

### Consultation questions

#### Questions

1. Do you agree that section 5 of the revised Disciplinary Procedures and Rules as drafted accurately reflects the powers provided for in *The Education Workforce Council (Interim Suspension Orders) (Additional Functions) (Wales) Order 2021*?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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**Supporting comments**

We agree that section 5 of the revised disciplinary procedures and rules accurately reflect the powers provided for in the EWC document.

The proposed disciplinary procedures and rules outline clearly and accurately how any hearing, or review hearing, should be scheduled and both how the registered person should be contacted, and the information shared with them.

**2. *The Education Workforce Council (Interim Suspension Orders) (Additional Functions) (Wales) Order 2021* provides for the EWC to consider whether to impose an ISO on the registration of a EWC registrant. Do you agree with the ISO Procedures and Rules as set out in Section 5 of the draft Disciplinary Procedures and Rules 2021?**

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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**Supporting comments**

We agree with the ISO procedures and rules as set out in the proposed Section 5 of the draft disciplinary procedures and rules 2021.

However, we have outlined a few points for the Council to consider:

**39 (2) (a)** The document outlines consideration may in significantly serious cases be made for the protection of the public. Could this be made clearer to explain that it is for the protection of children in particular?

**39 (3)** If the registered person chooses to receive a notice of hearing by email, the duty authorised officer should request a 'read receipt' as proof that the notice of hearing has been received by the registered person. This is in line with the alternative method of using special delivery through the registered person's address.

**39(4) (d)** There is no mention that the registered person should be asked to confirm whether they wish the hearing to be conducted through the medium of English or Welsh.

**39 (5)** The draft document states that the registered person shall, prior to the hearing, provide the Education Workforce Council (EWC) with any relevant written submission or documents. However, it does not state how far in advance of the hearing that these documents should be received to enable the committee to consider them prior to any meeting.

**40 (1)** The document clearly outlines the right for the committee to exclude the public from the hearing or any part of a hearing. This right should be made clear when the registered person initially requests that the hearing be held in public rather than in private [4(d) (ii)]

**42 (3) (b)** Should the committee be satisfied that rule 39 has been complied with, and in the absence of the registered person, it is unclear why the committee might choose to adjourn the hearing.

**43 (1) (b)** This does not take into account when the registered person is self-employed and does not have a current, last employer or agent.

- 44(1)** It is not clear whether the reference to publishing information on a website is relating to an inward or outward-facing website.
- 44(3)** It is not clear who makes the decision whether or not publishing the ISO's information on the EWC's maintained website appears necessary.
- 45 (1)** Is there a limit to the number of times that a former registered person against whom an Interim Suspension Order (ISO) has been made may request that the EWC reviews it? if so, this should be noted in this section.
- 45 (6)** Can the members of the review hearing committee be the same people as the original committee who undertook the initial hearing?
- 47(1)** If, following a review, the ISO is revoked, should the authorised officer inform the former registered person's previous employer of the decision as well as the former registered person themselves?

3. **We would like to know your views on the effects the draft ISO Procedures and Rules would have on the Welsh language, specifically on:**
- I. opportunities for people to use the Welsh language; and
  - II. treating the Welsh language no less favourably than the English language

**Supporting comments**

Within the draft initial revised interim suspension orders, it clearly states that the registered person has the opportunity to decide whether the hearing takes place through the medium of English or Welsh. However, in 39(4) (d) there is no mention that the registered person should be asked to confirm the language at the registered person wishes to be used to conduct the hearing.

To enable all language requests to be satisfied, the EWC would need to ensure that they have sufficient panel members available for both an initial hearing and any review to enable them to conduct all meetings through the medium of Welsh.

As long as all requests by the Registered Person to conduct meetings through the medium of Welsh were met, the proposals would not have any negative impact on opportunities for people to use Welsh and therefore would not treat the Welsh language less favourably than the English language.

4. **Do you have any other comments?**

No

Please check the box if you wish for your response to remain confidential

Please check the box if you are happy for us to contact you about your submission

**Data protection:** How the views and information you provide to us will be used

Any response received will be seen in full by EWC staff dealing with this consultation. It may also be seen by other EWC staff to help them plan further consultations.

The EWC intends to publish a summary of responses which will include the name of the person or organisation that sent the response. If you do not wish your name or organisation name to be published you can opt out when you submit your response either online or by email.

**What happens next?**

We will publish a consultation report on the EWC's website.