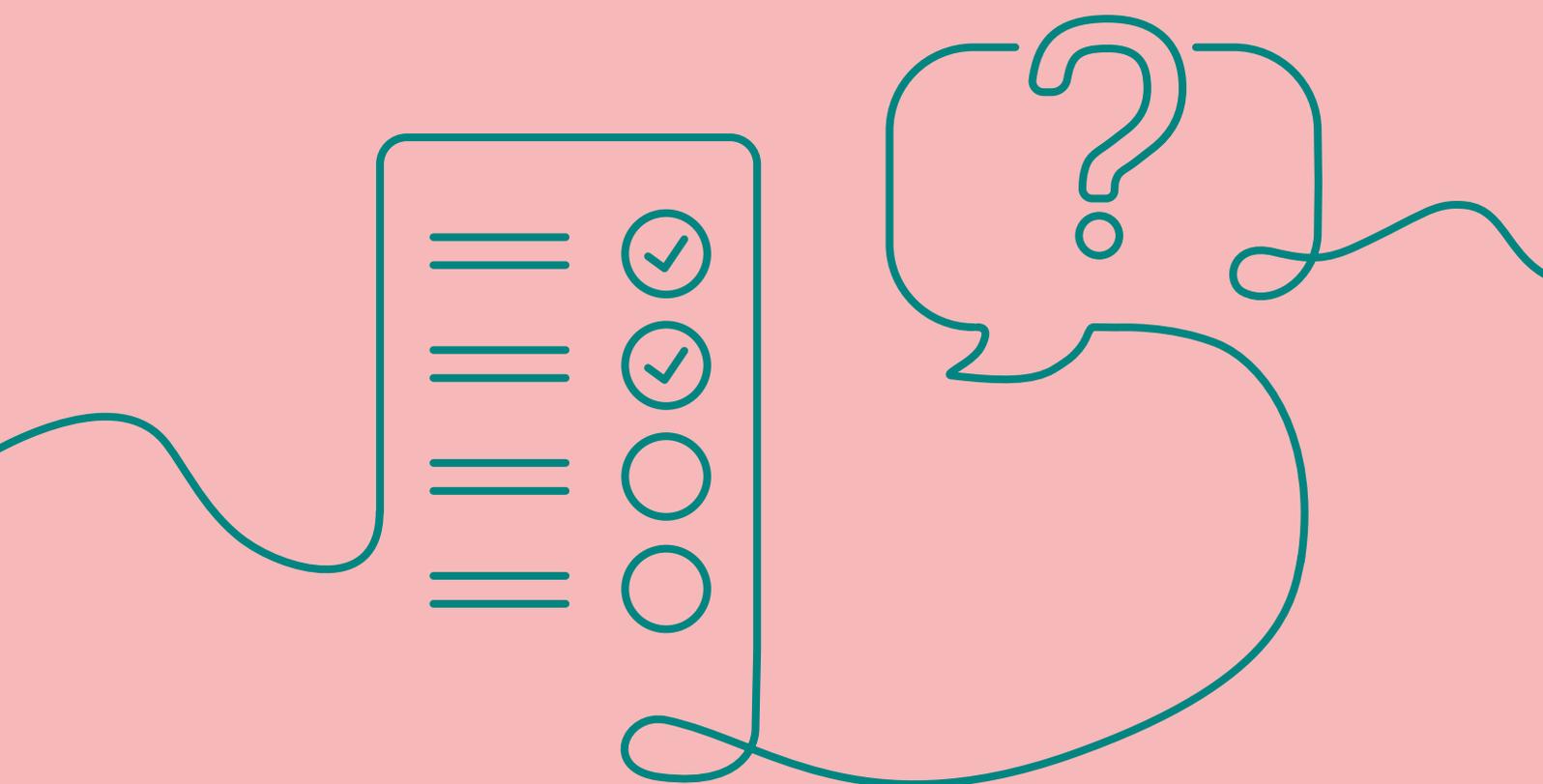


Removal from the Register and Registration Appeals Rules 2019



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Part 1: Introduction

Citation and commencement

1. (1) Social Work England has made these Rules in accordance with regulation 3 of The Social Workers Regulations 2018.

(2) These Rules are made in exercise of powers conferred by regulation 14(6) and 19(5) of The Social Workers Regulations 2018.

(3) These Rules may be cited as The Social Work England (Registration – Removal from the Register and Registration Appeals) Rules 2019 and come into force on the date on which section 39(1) of the Children and Social Work Act 2017 comes into force.

Interpretation

2. In these Rules:

‘adjudicator’ means an individual appointed under regulation 19(3).

‘appellant’ means a person who has appealed in accordance with regulation 19(1).

‘entry in the register’ means information recorded in the register in accordance with regulation 9.

‘listed offence’ has the meaning given in regulation 26(8).

‘register’ means the register of social workers in England described in section 39(1) of the Children and Social Work Act 2017.

‘registered social worker’ has the meaning given in regulation 2(5) and registrant is to be construed accordingly.

‘registrant’ means a registered social worker.

‘registration appeal’ means an appeal made in accordance with regulation 19.

'regulation' means a regulation in The Social Workers Regulations 2018 and 'regulations' shall be interpreted accordingly.

'regulator' means Social Work England or a person carrying out the functions of the regulator set out in the Regulations.

'removal order' means an order issued in accordance with paragraph 13(1)(a) of Schedule 2.

'Social Work England online account' means a tool delivered via the regulator's website that provides a secure communication channel for the regulator to communicate with the registrant.

Part 2: Removal from the register

3. Other than removal under regulation 14(1)(b) or 14(1)(e), the procedures in this Part must be followed where the regulator proposes to remove a registrant's entry in the register under regulation 14(1).
4.
 - (1) Where the regulator becomes aware that a registrant's entry in the register may have been fraudulently procured or incorrectly made, it may request such evidence or information as it considers necessary to determine whether this is the case, including making a request to the registrant in accordance with regulation 16(2).
 - (2) The recipient of a request made under paragraph (1) must respond within 28 calendar days of service (and rule 22 shall apply).
 - (3) A request under paragraph (1) must:
 - (a) be in writing;
 - (b) specify the name and address to which the evidence or information must be sent;
 - (c) inform the individual of the regulator's powers under regulation 16(5) if they fail to provide the information or evidence requested; and
 - (d) inform the individual that they would be committing an offence if they fail to provide information or evidence requested, as set out in regulation 32(1).
 - (4) If a person other than a registrant fails to provide information or evidence requested in accordance with rule 4(2), they commit an offence as set out in regulation 32(1) and are liable on summary conviction to a fine.
5. Where the regulator intends to remove a registrant's entry in the register in accordance with regulation 14(1)(g), notification of the death must be received in writing.

Making representations

6.
 - (1) Where the regulator is minded to remove a registrant's entry in the register in accordance with regulation 14(1), other than 14(1)(c) and 14(1)(g), or in accordance

with rule 63(2) of The Social Work England (Registration) Rules 2019, the regulator must:

- (a) notify the registrant of the proposed removal, and reasons for it;
 - (b) inform the registrant that they have 28 calendar days from the date of service to make representations against the removal (and rule 22 shall apply);
 - (c) inform the registrant of the regulator's powers under rule 10; and
 - (d) inform the registrant of the relevant rights of appeal under regulation 19.
7. Where the regulator is minded to remove a registrant's entry in the register under regulation 14(1)(a) and intends to make an interim order in accordance with regulation 14(7), the process set out in rule 13 of the Social Work England (Fitness to Practise) Rules 2019 shall apply.
8. The regulator must consider any representations and notify the registrant of its decision within 28 calendar days of receiving the representations, and of their right to appeal under regulation 19(1)(g) and Part 3 of these Rules.
9. Following consideration of representations the regulator shall determine either to:
- (1) Amend the entry in the register;
 - (2) Remove the entry in the register; or
 - (3) Take no further action.
10. If representations are not received within 28 calendar days of notification of the decision being sent to the registrant, in accordance with rule 8 the regulator may remove the entry from the register.

Part 3: Registration appeals

11. (1) Where the regulator has received a registration appeal submitted in accordance with regulation 19(1) the appeal must be handled in accordance with that regulation and with this Part.
12. (1) An appeal must be made in writing to the regulator, setting out the grounds of appeal, within 28 calendar days of the appellant being notified of the decision to be appealed.

(2) An appeal made under paragraph (1) must state whether the appellant requests that the appeal is considered at an oral hearing.
13. (1) The regulator must appoint at least two adjudicators to determine the case, of which at least one must be a lay person.

(2) The chair of any hearing or meeting must be a lay person.
14. When appointing the adjudicators, the regulator must:

(1) Appoint a legally qualified adjudicator; or

(2) Appoint a solicitor or barrister of not less than 10 years standing to act as a legal adviser.
15. (1) Adjudicators may regulate their own procedures and must conduct the hearing in the manner they consider fair.

(2) Adjudicators may:
 - (a) decide whether to dispose of the registration appeal with or without a hearing, subject to paragraph (4);
 - (b) require persons other than the appellant to provide documents and, where a hearing is to be held, attend and give evidence;
 - (c) give directions as to what evidence is to be considered, including new evidence that has not previously been considered by the regulator;
 - (d) give any other directions as they consider necessary;

(3) Where the appellant or the regulator fails to comply with these Rules, or a direction given under paragraph (1) above, the adjudicators may:

(a) draw adverse inferences; and

(b) refuse to admit evidence where the failure relates to the admissibility of that evidence.

(4) If adjudicators propose to dispose of an appeal without a hearing, the appellant must be notified. If the appellant wishes to request a hearing, they must do so within 28 calendar days of receipt of the notification. A hearing must be held if the appellant requests one within this timescale.

(5) Where a hearing is to be held, the appellant must be given at least 28 calendar days' notice of the hearing in accordance with the requirements of rule 23(1)(a) and the notice must include the dates, times and place of the hearing.

16. Where a hearing is held, the appellant and the regulator may:

(1) Attend the hearing;

(2) Be represented at the hearing by a solicitor or counsel or, in the case of the appellant:

(a) a representative from any professional organisation of which the appellant is a member; or

(b) at the discretion of the adjudicators, a member of the appellant's family or other suitable person;

providing that that person is not to be called as a witness at the hearing;

(3) Make oral representations, either themselves or through a representative; and

(4) Call witnesses in support of their appeal, providing that they have given the adjudicators at least 7 calendar days' notice of their intention to call the witness.

17. (1) Subject to paragraphs (2) and (3) below, a hearing under these Rules shall be held in public.

(2) A hearing shall be held in private where the proceedings are to consider the physical or mental health of the appellant.

(3) The adjudicators may determine to hold part or all of the proceedings in private where they consider that to do so would be appropriate having regard to:

(a) the vulnerability, interests or welfare of any participant in the proceedings; or

(b) the public interest, including in the effective pursuit of the regulator's overarching objective.

(4) The adjudicators may deliberate in camera, in the absence of the parties and of the public, at any time.

18. Where the appellant does not attend a hearing and is not represented, the adjudicators may proceed to determine the matter, including in circumstances where the appellant has previously indicated they wished to attend, if they are satisfied that the appellant has been served or all reasonable efforts have been made to serve the appellant with notice of the hearing in accordance with these Rules.
19. (1) In particular and without prejudice to any other provision in the Regulations, Schedules or Rules, the adjudicators or the regulator may adjourn or postpone a hearing of their own motion or on application of a party to the proceedings.
- (2) Where a hearing is postponed the appellant shall be sent notice of the date on which the postponed hearing will be held.
- (3) The date for a postponed hearing shall not be fixed for any date before the end of the period of 14 calendar days beginning with the day on which the notice referred to in paragraph (2) is sent to the appellant.
20. (1) The adjudicators must determine the outcome of the registration appeal as soon as practicable and in any event within 60 working days of the appeal being received by the regulator.
- (2) Once the adjudicators have determined the outcome of the registration appeal in accordance with regulation 19(6) and (7), the regulator must notify the appellant and where applicable their representatives of the outcome of the determination within 7 calendar days of the date on which it is made.

(3) Where applicable, such notification must inform the appellant of their right to appeal under regulation 19(8).

(4) The regulator may notify;

(a) any person by whom the appellant is employed or with whom they have an arrangement to provide services as a social worker in relation to social work; and

(b) any other person,

of the outcome if it considers it to be in the public interest.

21. (1) The regulator must make arrangements to record oral submissions or witness evidence given in person under these Rules.

(2) The regulator may access a transcript of any recording of proceedings, including for the purposes of audit and training.

(3) The regulator must, upon request, supply a transcript of any recording of proceedings to any party who was entitled to be present.

22. (1) The regulator must publish the details of the adjudicators' determinations, and reasons provided for it, unless paragraph (2) applies.

(2) Where the adjudicator's determination is favourable to the appellant, the regulator must not publish the adjudicator's determination unless the appellant so requests.

Part 4: Notice

23. (1) (a) A notice or communication to the appellant or registrant (as the case may be) under these Rules must be;

(i) Placed on the Social Work England online account where the appellant or registrant has agreed to accept notices or communications from the regulator via the Social Work England online account; or

(ii) Sent by next day delivery service or ordinary post to an address provided by the appellant or registrant to the regulator.

(b) Service of any notice or communication may be established by;

(i) (aa) A signed statement from a person causing the notice or communication to be placed on the Social Work England online account, and

(bb) A certified copy of a message sent by electronic mail to the appellant or registrant informing the appellant or registrant of the placement of the notice or communication on the Social Work England online account; or

(ii) a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service, or

(iii) a signed statement from the person sending by ordinary post or delivering the notice or document in accordance with this rule.

(2) Where any notice or communication is sent or otherwise served under these Rules, it must be treated as having been served

(a) where the notice or communication is placed on the Social Work England online account, on the day an electronic message is sent to the appellant or registrant informing them of the placement of the notice or communication on the Social Work England online account;

(b) where the notice or communication has been left at an address, on the day it was left;

(c) Where the notice or communication has been sent by next day delivery service, the day after the date it was sent;

(d) Where the notice or communication has been sent by ordinary post, two days after it was sent.

(3) (a) The appellant or registrant may nominate a solicitor, professional body, or trade union to accept service on their behalf of any notice or communication sent under these Rules.

(b) Where the appellant or registrant makes a nomination under subparagraph (a), service may be proved by delivery to the nominee under the provisions of paragraph (2).