

Consolidated Fitness to Practise Rules

- (1) Health and Care Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009;**
- (2) Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003;**
- (3) Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003;**
- (4) Health and Care Professions Council (Health Committee) (Procedure) Rules 2003.**

(SI 2009/1355 and SI 2003/1574 to 1576)

incorporating revocations and amendments made up to

1 December 2023

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The Health Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009

The Health and Care Professions Council¹ makes the following Rules in exercise of the powers conferred by articles 7(1) and (2), 9(2)(c), 26(3), 32 and 37(4) of, and paragraph 18(1) and (2) of Schedule 1 to, the Health Professions Order 2001, having consulted in accordance with articles 7(3) and 41(3) of that Order.

PART 1: INTRODUCTORY

Citation and commencement

1. These Rules may be cited as the Health Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009² and—

- (a) ...³ come into force on 1st July 2009;
- (b) ...⁴

Interpretation

2. In these Rules—

“final outcome” in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought;
or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“lay member” means a member who—

- (a) is not and never has been—
 - (i) a registrant (other than a person who was registered in that part of the register which related to the social work profession in England),⁵
 - (ii) registered under the 1960 Act,
 - (iii) registered in the AODP register, the AEP register or the BPS register;
 - (iv) ...⁶

- (b) does not hold a qualification that would entitle them to apply for registration under the Order;

“licensing body” means—

- (a) any body, other than the Council, anywhere in the world that licenses or regulates any profession;
- (b) the Council for the Professions Supplementary to Medicine, prior to its abolition by virtue of the Order;

“member”, unless the context otherwise requires, means a member of a Practice Committee and includes the chair, a deputy chair or a panel chair;

“the Order” means the Health Professions Order 2001;⁷

“spent conviction” means—

- (a) in relation to a conviction in a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974; or
- (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

PART 2: PRACTICE COMMITTEES

The Practice Committees

3.—(1) Each Practice Committee shall consist of not more than 350 persons, appointed by the Council, none of whom is a member of the Council.

(2) Members of a Practice Committee may only participate in the proceedings of the committee that they are invited to participate in by the Registrar or by a person authorised by the Registrar to invite them.

(3) The panel of members invited to participate in any proceedings of a Practice Committee in accordance with paragraph (2) may, at those proceedings, perform any function of that Practice Committee that it is reasonable for them to perform.

(4) The Council shall determine the duration of the term of office of members of the Practice Committees on their appointment.

(5) No person may be a member of one or more Practice Committees for more than an aggregate of 8 years during any period of 20 years but, for the purpose of computing that

aggregate, any service as a member of a Practice Committee prior to 1st July 2007 is to be discounted.

(6) The quorum for a Practice Committee (that is, for a panel of members invited in accordance with paragraph (2)) is 3, of whom at least one must be—

- (a) a registrant from the same part of the register as any registrant who is the subject of the proceedings;
- (b) a lay member; and
- (c) a panel chair (who may also count as the registrant or lay member mentioned in subparagraphs (a) and (b)).

Chairing of the Practice Committees

4.—(1) The Council shall appoint, from among the members of each of the Practice Committees, persons to chair proceedings of the committee of which they are a member (“panel chairs”).

(2) Of those persons, the Council shall designate one panel chair of each Practice Committee to act as the chair of that committee for a period determined by the Council on designation.

(3) If the Registrar or the person duly authorised on the Registrar’s behalf (“the inviter”) does not invite the chair to participate in particular proceedings of the Practice Committee—

- (a) the inviter must invite another panel chair to those proceedings; and
- (b) subject to paragraph (4), that panel chair shall chair the proceedings in place of the chair of the committee.

(4) If at any proceedings of a Practice Committee, the panel chair invited to chair the proceedings is absent, the members of the committee at that meeting may nominate one of their number from amongst the members who are present to chair the proceedings.

(5) A person serving as a chair or panel chair of a Practice Committee shall cease to be a chair or panel chair—

- (a) if the member ceases to be a member of the Practice Committee in question;
- (b) if the member resigns as a chair or panel chair (or both), which they may do at any time by a notice in writing to the Council; or
- (c) if the Council votes to terminate the member’s appointment as a chair or panel chair (or both).

Validity of panel proceedings

5.—(1) The validity of any Practice Committee proceedings is not affected by—

- (a) a member whom the Council must remove from the committee under rule 7(1)(b) to (f) participating in the proceedings;
- (b) a member whom the Council has removed under rule 7(1) having participated in the proceedings; or
- (c) a member who has been suspended by the Council under rule 8(1) or (2) having participated in the proceedings.

(2) Notwithstanding paragraph (1)(a), a member whom the Council must remove from a committee under rule 7(1)(b) to (f) is not entitled to participate in proceedings of the committee, pending the member's removal from the committee by the Council.

PART 3: DISQUALIFICATION, TERMINATION AND SUSPENSION OF MEMBERS

Disqualification from appointment

6. A person is disqualified from appointment as a member if that person—

- (a) has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction;
- (b) has at any time been convicted of an offence in the United Kingdom, and—
 - (i) the final outcome of the proceedings was a sentence of imprisonment or detention, and
 - (ii) the conviction is not a spent conviction;
- (c) has at any time been removed—
 - (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—
 - (aa) for which the person was responsible or to which the person was privy, or
 - (bb) which the person by their conduct contributed to or facilitated, or

- (ii) under—
 - (aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities), or
 - (bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session), from being concerned with the management or control of any body;
- (d) has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;
- (e) has at any time been adjudged bankrupt or sequestration of the person's estate has been awarded, and—
 - (i) the person has not been discharged, or
 - (ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 or Schedule 2A of the Insolvency (Northern Ireland) Order 1989 (which relate to bankruptcy restriction orders and undertakings);
- (f) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;
- (g) is subject to—
 - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986,
 - (ii) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989 (company directors disqualification),
 - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002, or
 - (iv) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of a county court administration order);
- (h) has been included by—
 - (i) the Disclosure and Barring Service⁸ in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007), or

- (ii) the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007);
- (i) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—
 - (i) the person's erasure from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body,
 - (ii) the person's suspension from a register held by the licensing body, and that suspension has not been terminated, or
 - (iii) a decision that had the effect of only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;
- (j) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by the Council, in the course of which or where the final outcome was that—
 - (i) the person was removed from or struck off the register (for a reason connected to the person's fitness to practise),
 - (ii) the person's registration in the register was suspended (including by an interim suspension order) and that suspension has not been terminated,
 - (iii) the person's registration in the register was made conditional upon their compliance with any requirement (including an interim conditions of practice order) and that requirement has not been lifted, or
 - (iv) the person's registration in the register was annotated by virtue of a caution order and that order is still in force;
- (k) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured, the final outcome of which was the removal of the person's entry in the register;
- (l) is or has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by—
 - (i) any licensing body, or
 - (ii) the Council,

and the Council is satisfied that the person's membership of the committee would be liable to undermine public confidence in the regulation of registrants; or

- (m) has at any time been convicted of an offence elsewhere than in the United Kingdom and the Council is satisfied that the person's membership of the committee would be liable to undermine public confidence in the regulation of registrants.

Termination of committee membership

7.—(1) A member shall be removed from office by the Council, if—

- (a) the member resigns, which a member may do at any time by a notice in writing to the Council;
- (b) in the case of a member who is—
 - (i) a registrant, that member's registration lapses, or
 - (ii) a lay member, that member no longer satisfies the criteria for being a lay member (which are in the definition of "lay member" in rule 2);
- (c) the member becomes a person of the type mentioned in rule 6(a), (b) or (e) to (h), whether or not they thereafter cease to be such a person;
- (d) the member becomes a person of the type mentioned in rule 6(c) or (d);
- (e) in the case of a registrant, the member becomes the subject of any investigation or proceedings concerning the member's fitness to practise by the Council, in the course of which or as a result of which—
 - (i) the member is struck off the register,
 - (ii) the member's registration in the register is suspended,
 - (iii) the member's registration in the register is made conditional upon the member's compliance with any requirement, or
 - (iv) the person's registration in the register is annotated by virtue of a caution order,

and the proceedings relating to that particular sanction have reached their final outcome;
- (f) in the case of a registrant, the member becomes subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the removal of the person's entry in the register;

- (g) the Council is satisfied that the member's level of attendance at meetings of the committee falls below a minimum level of attendance acceptable to the Council, having regard to—
 - (i) any recommended minimum levels of attendance that the Council has set in its standing orders, and
 - (ii) whether or not there were reasonable causes for the member's absences;
- (h) the Council is satisfied that the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the Council has included in its standing orders;
- (i) the Council is satisfied that the member is no longer able to perform their duties as a member of the committee because of adverse physical or mental health;
- (j) the Council is satisfied that the member's continued membership of the committee would be liable to undermine public confidence in the regulation of registrants.

(2) A member who becomes, or may become, a person to whom paragraph (1)(b) to (f) applies must notify the Council in writing of that fact as soon as the person becomes aware of it.

(3) Any member or employee of the Council may notify the Council if they are of the view that the Council may need to exercise its functions under paragraph (1).

Suspension of committee membership

8.—(1) The Council may suspend a member from office by a notice in writing served on the member—

- (a) if the Council has reasonable grounds for suspecting that the member has become a person to whom rule 7(1)(b)(ii) to (d) applies, for the purposes of determining whether or not the member has become such a person;
- (b) while the Council is considering whether or not it is satisfied as to the matters set out in rule 7(1)(g) to (j);
- (c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—
 - (i) any licensing body, or
 - (ii) the Council,

and the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the committee while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

- (d) if the member is the subject of any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the committee while the investigation or proceedings concerning the member's entry in the register is or are ongoing;
- (e) if the member is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or in any other part of the world relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—
 - (i) either—
 - (aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment or detention, and
 - (ii) the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the committee while the investigation or proceedings is or are ongoing.

(2) The Council shall suspend a member from office by notice in writing served on the member if the member is the subject of an order under article 31 of the Order (interim orders by a Practice Committee).

(3) The notice in writing under paragraph (1) or (2) shall set out the reasons for the suspension and the duration of the period of suspension, which shall (in the first instance) not be for more than 6 months.

(4) The Council—

- (a) may at any time review a suspension of a member by it; and
- (b) shall review any suspension of a member by it after 3 months from the start of the period of suspension, if requested to do so by the suspended member.

(5) Following a review, the Council may—

- (a) terminate the suspension; or

- (b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.

(6) The Council shall notify the suspended member in writing of the outcome of any review and that notice in writing shall include the reasons for any decision taken.

The Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003

The Health and Care Professions Council⁹, in exercise of its powers under articles 22(4), 26(2), (3) and 41(2) of and paragraph 18 of Schedule 1 to the Health Professions Order 2001 and of all other powers enabling it in that behalf and after consulting in accordance with article 41(3) of that Order, hereby makes the following rules:

Citation and commencement

1. These Rules may be cited as the Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003¹⁰ and shall come into force on 9th July 2003.

Interpretation

2. In these Rules—

"allegation" means any allegation of a kind mentioned in article 22(1) of the Order or any matter which is treated as an allegation by virtue of action taken under article 22(6) of the Order;

"Chair" means the panel chair of any panel performing the functions of the Committee;¹¹

"Committee" means the Investigating Committee of the Council;

"complainant" means a person by whom an allegation has been made to the Council;

...¹²

"legal assessor" means a person appointed in accordance with article 34(1) of the Order;¹³

"the Order" means the Health Professions Order 2001;¹⁴

"Presenting Officer" means a person appointed by—

- (a) the Council to present the case on its behalf at any hearing before the Committee which relates to an allegation against a registrant;¹⁵ or
- (b) the Registrar to represent him at any hearing before the Committee which relates to a register entry allegation against a registrant;¹⁶

and may include a solicitor or counsel;¹⁷

"register entry allegation" means an allegation of the kind mentioned in article 22(1)(b) of the Order or any matter which is treated as such an allegation by virtue of action taken under article 22(6) of the Order;

"registrant" means a person whose name appears in the register against whom an allegation has been made, and includes a person whose registration is currently suspended;¹⁸

....¹⁹

"standards of conduct, performance and ethics" means the standards of conduct, performance and ethics established by the Council under article 21(1)(a) of the Order.

Service of Documents

3.—(1) In these Rules a reference to the sending of a notice or other document to any person is a reference to it being—

- (a) in the case of the Council, its committees or the Registrar-
 - (i) sent by post to or left at the offices of the Council, or
 - (ii) sent by electronic mail to an electronic mail address which the Council has notified to the sender as an address for communications;
- (b) in the case of a registrant-
 - (i) sent by post to or left at the registrant's address as it appears in the register, or
 - (ii) sent by electronic mail to an electronic mail address which the registrant has notified to the Council as an address for communications; and
- (c) in any other case-
 - (i) sent by post to or left at the last known address of that person, or
 - (ii) sent by electronic mail to an electronic mail address which the person has notified to the Council as an address for communications.²⁰

3A. Any communications sent for the purposes of these Rules is to be treated as having been sent on the day the communication was posted or sent by electronic mail.²¹

Investigation of allegations

4.—(1) Where an allegation is referred to the Committee it shall, at the same time that it sends the notice referred to in article 26(2)(a) of the Order to the registrant,²² provide him with a copy of the standards of conduct, performance and ethics.

(2) Any written representations to be submitted to the Committee under article 26(2)(a) of the Order shall be sent before the end of the period of 28 days beginning with the date on which the notice referred to in that article is sent to the registrant.²³

(3) In considering an allegation the Committee may seek such advice or assistance as it sees fit but may not—

- (a) interview the registrant²⁴ unless he consents; or
- (b) take account of any document or other material which the registrant²⁵ has not had the opportunity to comment upon.

(4) Where the Committee has found that the registrant²⁶ has failed to comply with the standards of conduct, performance and ethics, the Committee may take that failure into account in its consideration of an allegation but such failure shall not be taken of itself to establish that the fitness to practise of the registrant²⁷ is impaired.

(5) Subject to rule 8, the Committee shall meet in private to consider an allegation other than a register entry allegation.

(6) Subject to paragraph (7), in determining whether there is a case to answer the Committee may take account of any other allegation made against the registrant²⁸ within a period of three years ending on the date upon which the present allegation was received by the Council.

(7) An earlier allegation in respect of which a Practice Committee previously determined that there was no case to answer may only be taken into account in accordance with paragraph (6) if, when the registrant²⁹ is notified that no further action is to be taken in connection with the earlier allegation, the notification contains a statement that the case may be taken into account in the consideration of any subsequent allegation.

(8) The Committee may consider and determine together—

- (a) two or more allegations against the same registrant;³⁰ or
- (b) allegations against two or more registrant,³¹

where it would be just to do so.³²

Notice of register entry allegation

5. Where the Council refers a register entry allegation to the Committee the Council shall send notice of the allegation to—

- (a) where known, the employer of the registrant³³ or any other person with whom he has an arrangement to provide professional services;
- (b) where known, any other body by which the registrant³⁴ is authorised to practise a health or social care profession; and
- (c) the Secretary of State, the Scottish Ministers, Senedd Cymru³⁵ and the Department of Health, Social Services and Public Safety in Northern Ireland.

Register entry allegations: Procedure

6.—(1) Where a register entry allegation is referred to the Committee it shall, in addition to the notice referred to in rule 4(1), send a notice to the registrant—³⁶

- (a) informing him:
 - (i) that he may, before the end of the period of 28 days beginning with the date on which the notice is sent, request that a hearing be held, and
 - (ii) that, even if he does not request a hearing, the Committee may hold a hearing if it considers it to be desirable; and
- (b) informing him of his right to be heard, and to be represented, at such a hearing.

(2) The Registrar may, and at the direction of the Committee shall, be a party to any proceedings.

(3) If the registrant³⁷ has requested that a hearing be held or the Committee determines that it would be desirable to hold a hearing the Committee shall fix a day on which it is to hear the case and send the parties notice of the day, time and venue for the hearing.

(4) The Committee shall not fix a date for the hearing which is before the end of the period of 28 days beginning with the day on which the Committee sent the notice referred to in paragraph (3) to the registrant³⁸.

(5) A registrant³⁹ may be represented in any proceedings by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

(6) The Committee may invite any person who, in its opinion, has an interest in the proceedings to submit written representations and any such representations shall be sent to

the Committee before the end of the period of 14 days beginning with the date on which the invitation is sent to that person.

(7) The Committee may consider and determine together—

- (a) two or more register entry allegations against the same registrant;⁴⁰ or
- (b) register entry allegations against two or more registrants,⁴¹

where it would be just to do so.⁴²

Preliminary meetings

7.—(1) The Committee or the Chair⁴³ may hold a preliminary meeting in private with the parties, their representatives and any other person the Committee or the Chair considers appropriate⁴⁴ if such a meeting would, in the opinion of the Committee or the Chair⁴⁵, assist the Committee to perform its functions.

(2) At any meeting which he conducts under paragraph (1) the Chair⁴⁶ may give directions under article 32(3) of the Order and, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.

Conduct of hearing

8.—(1) At any hearing in respect of a register entry allegation—

- (a) the proceedings shall be held in public unless the Committee is satisfied that, in the interests of justice or for the protection of the private life of the registrant⁴⁷, the complainant, any person giving evidence or of any patient or client, the public should be excluded from all or part of the hearing;
- (b) subject to sub-paragraph (c) the rules on the admissibility of evidence that apply in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place shall apply;
- (c) the Committee may hear or receive evidence which would not be admissible in such proceedings if it is satisfied that admission of that evidence is necessary in order to protect members of the public;
- (d) where the registrant⁴⁸ has been convicted of a criminal offence, a certified copy of the certificate of conviction (or, in Scotland, an extract conviction) shall be admissible as proof of that conviction and of the findings of fact upon which it was based;
- (e) the Committee may require evidence to be given on oath or affirmation and for that purpose may administer oaths or affirmations in an appropriate form;

- (f) the Committee may adjourn the proceedings from time to time as it thinks fit; and
- (g) the Committee may exclude from the hearing any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings.⁴⁹

(2) In paragraph (1)(b) the "appropriate court" means—

- (a) the Court of Session in Scotland;
- (b) the High Court of Justice in Northern Ireland; and
- (c) the High Court of Justice in England and Wales.

(3) The Committee may require any person (other than the registrant)⁵⁰ to attend a hearing and give evidence or produce documents.

(4) At the beginning of any hearing the Chair⁵¹ shall explain to the parties the order of proceedings which the Committee proposes to adopt and, unless the Committee determines otherwise, the parties shall be heard in the following order—

- (a) the Chair⁵² shall invite the Presenting Officer⁵³ to present the case against the registrant⁵⁴ and to adduce the evidence in support of that case;
- (b) any witness called by the Presenting Officer⁵⁵ shall be examined by him, may be cross-examined by the registrant⁵⁶ or his representative, may be re-examined by the Presenting Officer⁵⁷ and may be questioned by the Committee;
- (c) at the conclusion of the case against the registrant⁵⁸ the Chair⁵⁹ shall invite the registrant⁶⁰ or his representative to address the Committee and to adduce evidence as to the registrant's⁶¹ fitness to practise;
- (d) any witness called by the registrant⁶² shall be examined by him or his representative, may be cross-examined by the Presenting Officer⁶³, may be re-examined by the registrant⁶⁴ or his representative and may be questioned by the Committee;
- (e) the Chair⁶⁵ shall invite the Presenting Officer⁶⁶ to address the Committee again;
- (f) the registrant⁶⁷ or his representative may then address the Committee for a second time.

Vulnerable witnesses

8A.—(1) In proceedings before the Committee, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

- (a) any witness under the age of 17 at the time of the hearing;

- (b) any witness with a mental disorder within the meaning of the Mental Health Act 1983;
- (c) any witness who is significantly impaired in relation to intelligence and social functioning;
- (d) any witness with physical disabilities who requires assistance to give evidence;
- (e) any witness, where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim; and
- (f) any witness who complains of intimidation.

(2) Subject to any representations from the parties and the advice of the Legal Assessor, the Committee may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Committee may include, but shall not be limited to—

- (a) use of video conferencing facilities⁶⁸;
- (b) use of pre-recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for cross-examination and questioning by the Committee;
- (c) use of interpreters (including signers and translators) or intermediaries;
- (d) use of screens or such other measures as the Committee consider necessary in the circumstances, in order to prevent—
 - (i) the identity of the witness being revealed to the press or the general public; or
 - (ii) access to the witness by the registrant⁶⁹; and
- (e) the hearing of evidence by the Committee in private.

(4) Where—

- (a) the allegation against a registrant⁷⁰ is based on facts which are sexual in nature;
- (b) a witness is an alleged victim; and
- (c) the registrant⁷¹ is acting in person,

the registrant⁷² shall only be allowed to cross-examine the witness in person with the written consent of the witness.

(5) If, in the circumstances set out in paragraph (4) a witness does not provide written consent, the registrant⁷³ shall, not less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the Council shall appoint such a person on behalf of the registrant.⁷⁴

Meetings and hearings⁷⁵

8B.—(1) The Chair, in the case of a preliminary meeting, and the Committee, in the case of a hearing, may arrange for a meeting or hearing under these Rules to be conducted using audio or video conferencing facilities.

(2) Where a meeting or hearing uses audio or video conferencing facilities in accordance with paragraph (1), any notice sent under these Rules giving notice of the meeting or hearing must include the details of any audio or video conferencing arrangements required to access that meeting or hearing.

Absence of the registrant⁷⁶

9. Where the registrant⁷⁷ is neither present nor represented at a hearing in respect of a register entry allegation, the Committee may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken to serve the notice of the hearing under rule 6(3) on the registrant⁷⁸.

Extension of time limits

10. The time for—

- (a) requesting that a hearing be held specified in rule 6(1)(a); or
- (b) sending written representations specified in rule 4(2) or 6(6),

may be extended by the Chair where the Chair⁷⁹ is satisfied that in all the circumstances it is reasonable to do so.

The Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003

The Health and Care Professions Council⁸⁰, in exercise of its powers under articles 22(4), 30(9), 32, 33(4) and 41(2) of and paragraph 18 of Schedule 1 to the Health Professions Order 2001 and of all other powers enabling it in that behalf and after consulting in accordance with article 41(3) of that Order, hereby makes the following rules:

Citation and commencement

1. These Rules may be cited as the Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003⁸¹ and shall come into force on 9th July 2003.

Interpretation

2. In these Rules—

"allegation" means any allegation of a kind mentioned in article 22(1)(a) of the Order or any matter which is treated as an allegation by virtue of action taken under article 22(6) of the Order;

"Chair" means the panel chair of any panel of members performing the functions of the Committee;⁸²

"Committee" means the Conduct and Competence Committee of the Council;

"complainant" means a person by whom an allegation has been made to the Council;

"Health Committee" shall be construed in accordance with article 3(9) of the Order;

...⁸³

"legal assessor" means a person appointed in accordance with article 34(1) of the Order;⁸⁴

"the Order" means the Health Professions Order 2001;⁸⁵

"Presenting Officer" means a person appointed by the Council to present the case on its behalf at any hearing before the Committee which relates to an allegation against a registrant⁸⁶ and may include a solicitor or counsel.⁸⁷

"registrant" means a person whose name appears in the register against whom an allegation has been made, and includes a person whose registration is currently suspended.⁸⁸

...⁸⁹

Service of Documents

3.—(1) In these Rules a reference to the sending of a notice or other document to any person is a reference to it being—

- (a) in the case of the Council, its committees or the Registrar-
 - (i) sent by post to or left at the offices of the Council, or
 - (ii) sent by electronic mail to an electronic mail address which the Council has notified to the sender as an address for communications;
- (b) in the case of a registrant-
 - (i) sent by post to or left at the registrant’s address as it appears in the register, or
 - (ii) sent by electronic mail to an electronic mail address which the registrant has notified to the Council as an address for communications; and
- (c) in any other case-
 - (i) sent by post to or left at the last known address of that person, or
 - (ii) sent by electronic mail to an electronic mail address which the person has notified to the Council as an address for communications.⁹⁰

3A. Any communications sent for the purposes of these Rules is to be treated as having been sent on the day the communication was posted or sent by electronic mail.⁹¹

Referral to Health Committee

4.—(1) Where it appears to the Committee that an allegation which it is considering would be better dealt with by the Health Committee, the Committee may refer the allegation to the Health Committee for consideration and shall suspend its consideration of the allegation.

(2) If, following a referral under this rule, the Health Committee certifies to the Committee that the fitness to practise of the registrant⁹² is not impaired by reason of his physical or mental health the Committee shall resume and conclude its consideration of the allegation.

(3) If, following a referral under this rule, the Health Committee certifies to the Committee that it has dealt with the allegation and that no further action by the Committee is required in relation to the allegation the Committee shall take no further action in relation to the allegation.

Allegations

5.—(1) Where an allegation is referred to the Committee it shall without delay—

- (a) send to the registrant⁹³ a notice setting out the allegation;
- (b) invite the registrant⁹⁴ to submit written representations to the Committee and inform him that any such representations must be sent to the Committee before the end of the period of 28 days beginning with the date on which the notice is sent;
- (c) inform the registrant:⁹⁵
 - (i) that he may, before the end of the period of 28 days beginning with the date on which the notice is sent, request that a hearing be held, and
 - (ii) that, even if he does not request a hearing, the Committee may hold a hearing if it considers it to be desirable; and
- (d) inform the registrant⁹⁶ of his right to be heard, and to be represented, at such a hearing.

(2) Where any written representations are made to the Committee under paragraph (1)(b) it may, if it sees fit, send a notice to the complainant notifying him of the representations and inviting him, before the end of the period of 14 days beginning with the date on which the invitation was sent, to deal with any points raised by the Committee in respect of those representations.

(3) The Council shall give notice of any allegation which is referred to the Committee to—

- (a) where known, the employer of the registrant⁹⁷ or any other person with whom he has an arrangement to provide professional services;
- (b) where known, any other body by which the registrant⁹⁸ is authorised to practise a health or social care profession; and
- (c) the Secretary of State, the Scottish Ministers, Senedd Cymru⁹⁹ and the Department of Health, Social Services and Public Safety in Northern Ireland.

(4) The Committee may consider and determine together—

- (a) two or more allegations against the same registrant;¹⁰⁰ or
- (b) allegations against two or more registrants,¹⁰¹

where it would be just to do so.¹⁰²

Hearings

6.—(1) If the registrant¹⁰³ has requested that a hearing be held or the Committee determines that it would be desirable to hold a hearing the Committee shall fix a day on which it is to hear the case and send the parties notice of the day, time and venue for the hearing.

(2) The Committee shall not fix a date for the hearing which is before the end of the period of 28 days beginning with the day on which the Committee sent the notice referred to in paragraph (1) to the registrant.¹⁰⁴

(3) A registrant¹⁰⁵ may be represented in any proceedings by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

Directions and Preliminary meetings

7.—(1) The Chair may give directions under article 32(3) of the Order.

(2) Where the Committee considers it would assist it to perform its functions, it may hold a preliminary meeting in private with the parties, their representatives and any other person it considers appropriate.

(3) Where the Chair considers it would assist the Committee to perform its functions, the Chair may hold a preliminary meeting in private with the parties, their representatives and any other person the Chair considers appropriate.

(4) At any meeting which the Chair conducts under paragraph (3) the Chair may, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.¹⁰⁶

Further investigations

8.—(1) Before holding any hearing the Committee may carry out such investigations or seek such advice or assistance as it sees fit and, in particular, may—

- (a) ask the registrant¹⁰⁷ to provide a written description of his practice;
- (b) inspect a sample of the registrant's¹⁰⁸ patient or client records;
- (c) invite the registrant¹⁰⁹ to take a test of competence; or
- (d) interview the complainant, the registrant¹¹⁰ and any person nominated by the registrant.¹¹¹

(2) For the purpose of paragraph (1)(b) the Committee may only inspect patient or client records with the consent of the patient or client concerned unless the records are provided in a form from which the patient or client cannot be identified.

(3) For the purpose of paragraph (1)(d) the Committee may only interview a person with his consent and a person who consents to be interviewed may be represented at that interview by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

(4) The Committee may invite any person who, in its opinion, has an interest in the proceedings to submit written representations and any such representations shall be sent to the Committee before the end of the period of 14 days beginning with the date on which the invitation is sent to that person.

(5) The Committee shall provide the registrant¹¹² with any information or opinion which the Committee has received and afford the registrant¹¹³ the opportunity to comment on that information or opinion either before or at any hearing conducted under rule 10.

Compliance with standards

9. Where the Committee has found that the registrant¹¹⁴ has failed to comply with the standards of conduct, performance and ethics established by the Council under article 21(1)(a) of the Order, the Committee may take that failure into account but such failure shall not be taken of itself to establish that the fitness to practise of the registrant¹¹⁵ is impaired.

Conduct of hearing

10.—(1) At any hearing—

- (a) the proceedings shall be held in public unless the Committee is satisfied that, in the interests of justice or for the protection of the private life of the registrant,¹¹⁶ the complainant, any person giving evidence or of any patient or client, the public should be excluded from all or part of the hearing;
- (b) subject to sub-paragraph (c) the rules on the admissibility of evidence that apply in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place shall apply;
- (c) the Committee may hear or receive evidence which would not be admissible in such proceedings if it is satisfied that admission of that evidence is necessary in order to protect members of the public;
- (d) where the registrant¹¹⁷ has been convicted of a criminal offence, a certified copy of the certificate of conviction (or, in Scotland, an extract conviction) shall be admissible as proof of that conviction and of the findings of fact upon which it was based;

(da) ...¹¹⁸

(db) ...¹¹⁹

- (e) the Committee may require evidence to be given on oath or affirmation and for that purpose may administer oaths or affirmations in an appropriate form;
- (f) the Committee may adjourn the proceedings from time to time as it thinks fit; and
- (g) the Committee may exclude from the hearing any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings.¹²⁰

(2) In paragraph (1)(b) the "appropriate court" means—

- (a) the Court of Session in Scotland;
- (b) the High Court of Justice in Northern Ireland; and
- (c) the High Court of Justice in England and Wales.

(3) The Committee may require any person (other than the registrant)¹²¹ to attend a hearing and give evidence or produce documents.

(4) At the beginning of any hearing the Chair¹²² shall explain to the parties the order of proceedings which the Committee proposes to adopt and, unless the Committee determines otherwise, the parties shall be heard in the following order—

- (a) the Chair¹²³ shall invite the Presenting Officer¹²⁴ to present the case against the registrant¹²⁵ and to adduce the evidence in support of that case;
- (b) any witness called by the Presenting Officer¹²⁶ shall be examined by him, may be cross-examined by the registrant¹²⁷ or his representative, may be re-examined by the Presenting Officer¹²⁸ and may be questioned by the Committee;
- (c) at the conclusion of the case against the registrant¹²⁹ the Chair¹³⁰ shall invite the registrant¹³¹ or his representative to address the Committee and to adduce evidence as to the registrant's¹³² fitness to practise;
- (d) any witness called by the registrant¹³³ shall be examined by him or his representative, may be cross-examined by the Presenting Officer¹³⁴, may be re-examined by the registrant¹³⁵ or his representative and may be questioned by the Committee;
- (e) the Chair¹³⁶ shall invite the Presenting Officer¹³⁷ to address the Committee again;
- (f) the registrant¹³⁸ or his representative may then address the Committee for a second time.

Vulnerable witnesses

10A.—(1) In proceedings before the Committee, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

- (a) any witness under the age of 17 at the time of the hearing;
- (b) any witness with a mental disorder within the meaning of the Mental Health Act 1983;
- (c) any witness who is significantly impaired in relation to intelligence and social functioning;
- (d) any witness with physical disabilities who requires assistance to give evidence;
- (e) any witness, where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim; and
- (f) any witness who complains of intimidation.

(2) Subject to any representations from the parties and the advice of the Legal Assessor, the Committee may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Committee may include, but shall not be limited to—

- (a) use of video conferencing facilities¹³⁹ ;
- (b) use of pre-recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for cross-examination and questioning by the Committee;
- (c) use of interpreters (including signers and translators) or intermediaries;
- (d) use of screens or such other measures as the Committee consider necessary in the circumstances, in order to prevent—
 - (i) the identity of the witness being revealed to the press or the general public; or
 - (ii) access to the witness by the registrant;¹⁴⁰ and
- (e) the hearing of evidence by the Committee in private.

(4) Where—

- (a) the allegation against a registrant¹⁴¹ is based on facts which are sexual in nature;

- (b) a witness is an alleged victim; and
- (c) the registrant¹⁴² is acting in person,

the registrant¹⁴³ shall only be allowed to cross-examine the witness in person with the written consent of the witness.

(5) If, in the circumstances set out in paragraph (4) a witness does not provide written consent, the registrant¹⁴⁴ shall, not less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the Council shall appoint such a person on behalf of the registrant.^{145 146}

Meetings and hearings¹⁴⁷

10B.—(1) The Committee may arrange for a meeting or hearing under these Rules to be conducted using audio or video conferencing facilities.

(2) Where a meeting or hearing uses audio or video conferencing facilities in accordance with paragraph (1), any notice sent under these Rules giving notice of the meeting or hearing must include the details of any audio or video conferencing arrangements required to access that meeting or hearing.

Absence of the registrant¹⁴⁸

11. Where the registrant¹⁴⁹ is neither present nor represented at a hearing, the Committee may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken to serve the notice of the hearing under rule 6(1) on the registrant.¹⁵⁰

Disposal of cases

12.—(1) Where the Committee concludes its consideration of an allegation it shall dispose of the case in accordance with article 29 of the Order.

(2) The Committee shall notify the registrant¹⁵¹ and the complainant of its decision and the reasons for reaching that decision and shall inform the registrant¹⁵² of his right of appeal.

Review of orders and applications for restoration to the register

13.—(1) Where the Committee proposes to—

- (a) review an order in accordance with article 30 of the Order; or
- (b) consider an application for restoration in accordance with article 33 of the Order,

it shall without delay send a notice to the relevant person informing him of his right to appear, and to be represented, before the Committee to argue his case.

(2) For the purposes of this rule "relevant person" means—

- (a) a person against whom an order has been made under article 29 of the Order and which may be reviewed under article 30 of the Order; or
- (b) a person applying under article 33 of the Order for restoration to the register.

(3) Where the relevant person, before the end of the period of 28 days beginning with the date on which the notice under paragraph (1) is sent, sends a notice to the Committee stating that he wishes to appear before it, the Committee shall fix a day on which it is to hear the case and send to the relevant person notice of the day, time and venue for the hearing.

(4) The Committee shall not fix a date for the hearing which is before the end of the period of 28 days beginning with the day on which the relevant person sends the notice referred to in paragraph (3) to the Committee.

(5) The relevant person may be represented in any proceedings by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

(6) The Committee may require any person (other than the relevant person) to attend and give evidence or produce documents at any hearing to be held under paragraph (3).

(7) The Committee may invite any person who, in its opinion, has an interest in the proceedings to submit written representations and any such representations shall be sent to the Committee before the end of the period of 14 days beginning with the date on which the invitation is sent to that person.

(8) The Committee or the Chair¹⁵³ may hold a preliminary meeting in private with the parties, their representatives and any other person the Committee or the Chair considers appropriate¹⁵⁴ if such a meeting would, in the opinion of the Committee or the Chair¹⁵⁵, assist the Committee to perform its functions.

(9) At any meeting which he conducts under paragraph (8) the Chair¹⁵⁶ may give directions under article 32(3) of the Order and, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.

(10) Subject to rule 10B¹⁵⁷, a hearing under paragraph (3) shall be conducted in accordance with rule 10 but, where the proceedings relate to an application made by the relevant person, the Committee shall adopt an order of proceedings which provides for that person to present his case first and for the Presenting Officer¹⁵⁸ to speak last.

(11) The Committee shall notify the relevant person of its decision and the reasons for reaching that decision and shall inform him of his right of appeal.

Extension of time limits

14. The time for—

- (a) requesting that a hearing be held specified in rule 5(1)(c);
- (b) a person giving notice that he wishes to appear before the Committee specified in rule 13(3);
- (c) sending written representations specified in:
 - (i) rule 5(1)(b),
 - (ii) rule 8(4),
 - (iii) rule 13(7); or
- (d) dealing with any points raised by the Committee in respect of any written representations mentioned in rule 5(2);

may be extended by the Chair where the Chair¹⁵⁹ is satisfied that in all the circumstances it is reasonable to do so.

The Health and Care Professions Council (Health Committee) (Procedure) Rules 2003

The Health and Care Professions Council,¹⁶⁰ in exercise of its powers under articles 22(4), 30(9), 32, 33(4) and 41(2) of and paragraph 18 of Schedule 1 to the Health Professions Order 2001 and of all other powers enabling it in that behalf and after consulting in accordance with article 41(3) of that Order, hereby makes the following rules:

Citation and commencement

1. These Rules may be cited as the Health and Care Professions Council (Health Committee) (Procedure) Rules 2003¹⁶¹ and shall come into force on 9th July 2003.

Interpretation

2. In these Rules—

"allegation" means any allegation of a kind mentioned in article 22(1)(a) of the Order or any matter which is treated as an allegation by virtue of action taken under article 22(6) of the Order;

"Chair" means the panel chair of any panel of members performing the functions of the Committee;¹⁶²

"Committee" means the Health Committee of the Council;

"complainant" means a person by whom an allegation has been made to the Council;

"Conduct and Competence Committee" shall be construed in accordance with article 3(9) of the Order;

...¹⁶³

"legal assessor" means a person appointed in accordance with article 34(1) of the Order;¹⁶⁴

"the Order" means the Health Professions Order 2001;¹⁶⁵

"Presenting Officer" means a person appointed by the Council to present the case on its behalf at any hearing before the Committee which relates to an allegation against a registrant¹⁶⁶ and may include a solicitor or counsel;¹⁶⁷

"registrant" means a person whose name appears in the register against whom an allegation has been made, and includes a person whose registration is currently suspended.¹⁶⁸

...¹⁶⁹

Service of Documents

3.—(1) In these Rules a reference to the sending of a notice or other document to any person is a reference to it being—

- (a) in the case of the Council, its committees or the Registrar-
 - (i) sent by post to or left at the offices of the Council, or
 - (ii) sent by electronic mail to an electronic mail address which the Council has notified to the sender as an address for communications;
- (b) in the case of a registrant-
 - (i) sent by post to or left at the registrant’s address as it appears in the register, or
 - (ii) sent by electronic mail to an electronic mail address which the registrant has notified to the Council as an address for communications; and
- (c) in any other case-
 - (i) sent by post to or left at the last known address of that person, or
 - (ii) sent by electronic mail to an electronic mail address which the person has notified to the Council as an address for communications.¹⁷⁰

3A. Any communications sent for the purposes of these Rules is to be treated as having been sent on the day the communication was posted or sent by electronic mail.¹⁷¹

Referral to Conduct and Competence Committee

4.—(1) Where it appears to the Committee that an allegation which it is considering would be better dealt with by the Conduct and Competence Committee, the Committee may refer the allegation to the Conduct and Competence Committee for consideration and shall suspend its consideration of the allegation.

(2) If, following a referral under this rule, the Conduct and Competence Committee certifies to the Committee that the fitness to practise of the registrant¹⁷² is not impaired by reason of misconduct, lack of competence or any ground specified in sub-paragraph (iii) or (v) of article 22(1)(a) of the Order the Committee shall resume and conclude its consideration of the allegation.

(3) If, following a referral under this rule, the Conduct and Competence Committee certifies to the Committee that it has dealt with the allegation and that no further action by the Committee is required in relation to the allegation the Committee shall take no further action in relation to the allegation.

Allegations

5.—(1) Where an allegation is referred to the Committee it shall without delay—

- (a) send to the registrant¹⁷³ a notice setting out the allegation;
- (b) invite the registrant¹⁷⁴ to submit written representations to the Committee and inform him that any such representations must be sent to the Committee before the end of the period of 28 days beginning with the date on which the notice is sent;
- (c) inform the registrant:¹⁷⁵
 - (i) that he may, before the end of the period of 28 days beginning with the date on which the notice is sent, request that a hearing be held, and
 - (ii) that, even if he does not request a hearing, the Committee may hold a hearing if it considers it to be desirable; and
- (d) inform the registrant¹⁷⁶ of his right to be heard, and to be represented, at such a hearing.

(2) Where any written representations are made to the Committee under paragraph (1)(b) it may, if it sees fit, send a notice to the complainant notifying him of the representations and inviting him, before the end of the period of 14 days beginning with the date on which the invitation was sent, to deal with any points raised by the Committee in respect of those representations.

(3) The Council shall give notice of any allegation which is referred to the Committee to—

- (a) where known, the employer of the registrant¹⁷⁷ or any other person with whom he has an arrangement to provide professional services;
- (b) where known, any other body by which the registrant¹⁷⁸ is authorised to practise a health or social care profession; and
- (c) the Secretary of State, the Scottish Ministers, Senedd Cymru¹⁷⁹ and the Department of Health, Social Services and Public Safety in Northern Ireland.

(4) The Committee may consider and determine together—

- (a) two or more allegations against the same registrant,¹⁸⁰ or
- (b) allegations against two or more registrants,¹⁸¹

where it would be just to do so.¹⁸²

Hearings

6.—(1) If the registrant¹⁸³ has requested that a hearing be held or the Committee determines that it would be desirable to hold a hearing the Committee shall fix a day on which it is to hear the case and send the parties notice of the day, time and venue for the hearing.

(2) The Committee shall not fix a date for the hearing which is before the end of the period of 28 days beginning with the day on which the Committee sent the notice referred to in paragraph (1) to the registrant.¹⁸⁴

(3) A registrant¹⁸⁵ may be represented in any proceedings by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

Directions and Preliminary meetings

7.—(1) The Chair may give directions under article 32(3) of the Order.

(2) Where the Committee considers it would assist it to perform its functions, it may hold a preliminary meeting in private with the parties, their representatives and any other person it considers appropriate.

(3) Where the Chair considers it would assist the Committee to perform its functions, the Chair may hold a preliminary meeting in private with the parties, their representatives and any other person the Chair considers appropriate.

(4) At any meeting which the Chair conducts under paragraph (3) the Chair may, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.¹⁸⁶

Further investigations

8.—(1) Before holding any hearing the Committee may carry out such investigations or seek such advice or assistance as it sees fit and, in particular, may-

- (a) ask the registrant¹⁸⁷ to provide a written description of his practice;
- (b) inspect a sample of the registrant's¹⁸⁸ patient or client records;
- (c) invite the registrant¹⁸⁹ to take a test of competence; or
- (d) invite the registrant¹⁹⁰ to undergo a medical examination by a registered medical practitioner nominated by the Committee; or

- (e) interview the complainant, the registrant¹⁹¹ and any person nominated by the registrant.¹⁹²

(2) For the purpose of paragraph (1)(b) the Committee may only inspect patient or client records with the consent of the patient or client concerned unless the records are provided in a form from which the patient or client cannot be identified.

(3) For the purpose of paragraph (1)(e) the Committee may only interview a person with his consent and a person who consents to be interviewed may be represented at that interview by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

(4) The Committee may invite any person who, in its opinion, has an interest in the proceedings to submit written representations and any such representations shall be sent to the Committee before the end of the period of 14 days beginning with the date on which the invitation is sent to that person.

(5) The Committee shall provide the registrant¹⁹³ with any information or opinion which the Committee has received and afford the registrant¹⁹⁴ the opportunity to comment on that information or opinion either before or at any hearing conducted under rule 10.

Compliance with standards

9. Where the Committee has found that the registrant¹⁹⁵ has failed to comply with the standards of conduct, performance and ethics established by the Council under article 21(1)(a) of the Order, the Committee may take that failure into account but such failure shall not be taken of itself to establish that the fitness to practise of the registrant¹⁹⁶ is impaired.

Conduct of hearing

10.—(1) At any hearing—

- (a) the proceedings shall be held in public unless the Committee is satisfied that, in the interests of justice or for the protection of the private life of the registrant,¹⁹⁷ the complainant, any person giving evidence or of any patient or client, the public should be excluded from all or part of the hearing;
- (b) subject to sub-paragraph (c) the rules on the admissibility of evidence that apply in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place shall apply;
- (c) the Committee may hear or receive evidence which would not be admissible in such proceedings if it is satisfied that admission of that evidence is necessary in order to protect members of the public;

- (d) where the registrant¹⁹⁸ has been convicted of a criminal offence, a certified copy of the certificate of conviction (or, in Scotland, an extract conviction) shall be admissible as proof of that conviction and of the findings of fact upon which it was based;
- (e) the Committee may require evidence to be given on oath or affirmation and for that purpose may administer oaths or affirmations in an appropriate form;
- (f) the Committee may adjourn the proceedings from time to time as it thinks fit; and
- (g) the Committee may exclude from the hearing any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings.¹⁹⁹

(2) In paragraph (1)(b) the "appropriate court" means—

- (a) the Court of Session in Scotland;
- (b) the High Court of Justice in Northern Ireland; and
- (c) the High Court of Justice in England and Wales.

(3) The Committee may require any person (other than the registrant)²⁰⁰ to attend a hearing and give evidence or produce documents.

(4) At the beginning of any hearing the Chair²⁰¹ shall explain to the parties the order of proceedings which the Committee proposes to adopt and, unless the Committee determines otherwise, the parties shall be heard in the following order—

- (a) the Chair²⁰² shall invite the Presenting Officer²⁰³ to present the case against the registrant²⁰⁴ and to adduce the evidence in support of that case;
- (b) any witness called by the Presenting Officer²⁰⁵ shall be examined by him, may be cross-examined by the registrant²⁰⁶ or his representative, may be re-examined by the Presenting Officer²⁰⁷ and may be questioned by the Committee;
- (c) at the conclusion of the case against the registrant²⁰⁸ the Chair²⁰⁹ shall invite the registrant²¹⁰ or his representative to address the Committee and to adduce evidence as to the registrant's²¹¹ fitness to practise;
- (d) any witness called by the registrant²¹² shall be examined by him or his representative, may be cross-examined by the Presenting Officer²¹³, may be re-examined by the registrant²¹⁴ or his representative and may be questioned by the Committee;
- (e) the Chair²¹⁵ shall invite the Presenting Officer²¹⁶ to address the Committee again;

- (f) the registrant²¹⁷ or his representative may then address the Committee for a second time.

Vulnerable witnesses

10A.—(1) In proceedings before the Committee, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

- (a) any witness under the age of 17 at the time of the hearing;
- (b) any witness with a mental disorder within the meaning of the Mental Health Act 1983;
- (c) any witness who is significantly impaired in relation to intelligence and social functioning;
- (d) any witness with physical disabilities who requires assistance to give evidence;
- (e) any witness, where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim; and
- (f) any witness who complains of intimidation.

(2) Subject to any representations from the parties and the advice of the Legal Assessor, the Committee may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Committee may include, but shall not be limited to—

- (a) use of video conferencing facilities²¹⁸;
- (b) use of pre-recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for cross-examination and questioning by the Committee;
- (c) use of interpreters (including signers and translators) or intermediaries;
- (d) use of screens or such other measures as the Committee consider necessary in the circumstances, in order to prevent—
 - (i) the identity of the witness being revealed to the press or the general public; or
 - (ii) access to the witness by the registrant;²¹⁹ and
- (e) the hearing of evidence by the Committee in private.

(4) Where—

- (a) the allegation against a registrant²²⁰ is based on facts which are sexual in nature;
- (b) a witness is an alleged victim; and
- (c) the registrant²²¹ is acting in person,

the registrant²²² shall only be allowed to cross-examine the witness in person with the written consent of the witness.

(5) If, in the circumstances set out in paragraph (4) a witness does not provide written consent, the registrant²²³ shall, not less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the Council shall appoint such a person on behalf of the registrant.^{224 225}

Meetings and hearings²²⁶

10B.—(1) The Committee may arrange for a meeting or hearing under these Rules to be conducted using audio or video conferencing facilities.

(2) Where a meeting or hearing uses audio or video conferencing facilities in accordance with paragraph (1), any notice sent under these Rules giving notice of the meeting or hearing must include the details of any audio or video conferencing arrangements required to access that meeting or hearing.

Absence of the registrant²²⁷

11. Where the registrant²²⁸ is neither present nor represented at a hearing, the Committee may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken to serve the notice of the hearing under rule 6(1) on the registrant.²²⁹

Disposal of cases

12.—(1) Where the Committee concludes its consideration of an allegation it shall dispose of the case in accordance with article 29 of the Order.

(2) The Committee shall notify the registrant²³⁰ and the complainant of its decision and the reasons for reaching that decision and shall inform the registrant²³¹ of his right of appeal.

Review of orders and applications for restoration to the register

13.—(1) Where the Committee proposes to—

- (a) review an order in accordance with article 30 of the Order; or

- (b) consider an application for restoration in accordance with article 33 of the Order,

it shall without delay send a notice to the relevant person informing him of his right to appear, and to be represented, before the Committee to argue his case.

(2) For the purposes of this rule "relevant person" means—

- (a) a person against whom an order has been made under article 29 of the Order and which may be reviewed under article 30 of the Order; or
- (b) a person applying under article 33 of the Order for restoration to the register.

(3) Where the relevant person, before the end of the period of 28 days beginning with the date on which the notice under paragraph (1) is sent, sends a notice to the Committee stating that he wishes to appear before it, the Committee shall fix a day on which it is to hear the case and send to the relevant person notice of the day, time and venue for the hearing.

(4) The Committee shall not fix a date for the hearing which is before the end of the period of 28 days beginning with the day on which the relevant person sends the notice referred to in paragraph (3) to the Committee.

(5) The relevant person may be represented in any proceedings by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

(6) The Committee may require any person (other than the relevant person) to attend and give evidence or produce documents at any hearing to be held under paragraph (3).

(7) The Committee may invite any person who, in its opinion, has an interest in the proceedings to submit written representations and any such representations shall be sent to the Committee before the end of the period of 14 days beginning with the date on which the invitation is sent to that person.

(8) The Committee or the Chair²³² may hold a preliminary meeting in private with the parties, their representatives and any other person the Committee or the Chair considers appropriate²³³ if such a meeting would, in the opinion of the Committee or the Chair²³⁴, assist the Committee to perform its functions.

(9) At any meeting which he conducts under paragraph (8) the Chair²³⁵ may give directions under article 32(3) of the Order and, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.

(10) Subject to rule 10B²³⁶, a hearing under paragraph (3) shall be conducted in accordance with rule 10 but, where the proceedings relate to an application made by the relevant person, the Committee shall adopt an order of proceedings which provides for that person to present his case first and for the Presenting Officer²³⁷ to speak last.

(11) The Committee shall notify the relevant person of its decision and the reasons for reaching that decision and shall inform him of his right of appeal.

Extension of time limits

14. The time for—

- (a) requesting that a hearing be held specified in rule 5(1)(c);
- (b) a person giving notice that he wishes to appear before the Committee specified in rule 13(3);
- (c) sending written representations specified in:
 - (i) rule 5(1)(b),
 - (ii) rule 8(4),
 - (iii) rule 13(7); or
- (d) dealing with any points raised by the Committee in respect of any written representations mentioned in rule 5(2).

may be extended by the Chair where the Chair²³⁸ is satisfied that in all the circumstances it is reasonable to do so.

¹ by virtue of the Health and Social Care Act 2012 (Sch. 15, para. 53(1)), references to the Health Professions Council are to be read as if they were to the Health and Care Professions Council

² technically, the original citation remains correct (see 1 above)

³ spent, by virtue of repeals made by the Protection of Freedoms Act 2012, s75(6)

⁴ *ibid*

⁵ inserted, SI 2019/1094, Sch. 1, para 11(a)(i)

⁶ deleted, SI 2019/1094, Sch. 1, para 11(a)(ii) and (iii)

⁷ substituted, SI 2019/1094, Sch. 1, para 11(b)

⁸ substituted, SI 2012/3006, Art. 13(3)(u)

⁹ see 1 above

¹⁰ substituted (together with the title), SI 2016/693, Sch., rule 3(2)

¹¹ inserted, SI 2009/1355, Sch., rule 10(a)

¹² deleted, SI 2012/1479, Art. 6(2)(a)

¹³ inserted, SI 2005/1625, Sch., rule 4(1)(a)

¹⁴ substituted, SI 2019/1094, Sch. 1, para 4

¹⁵ substituted, SI 2012/1479, Art. 6(2)(c)

¹⁶ *ibid*

¹⁷ inserted, SI 2005/1625, Sch., rule 4(1)(b)

¹⁸ inserted, SI 2012/1479, Art. 6(2)(d)

¹⁹ deleted, SI 2005/1625, Sch., rule 4(1)(c)

²⁰ substituted, SI 2021/27, Sch. , rule 2(3)

²¹ inserted, SI 2021/27, Sch., rule 2(3A)

²² substituted, SI 2012/1479, Art. 6(3)(b)

²³ *ibid*

²⁴ *ibid*

²⁵ *ibid*

²⁶ *ibid*

²⁷ *ibid*

²⁸ *ibid*

²⁹ *ibid*

³⁰ *ibid*

³¹ *ibid*

³² inserted, SI 2005/1625, Sch., rule 4(2)

³³ substituted, SI 2012/1479, Art. 6(3)(c)

³⁴ *ibid*

³⁵ substituted, by virtue of s.150A Government of Wales Act 2006

³⁶ substituted, SI 2012/1479, Art. 6(3)(d)

³⁷ *ibid*

³⁸ *ibid*

³⁹ *ibid*

⁴⁰ *ibid*

⁴¹ *ibid*

⁴² inserted, SI 2005/1625, Sch., rule 4(3)

⁴³ substituted, SI 2009/1355, Sch., rule 10(b)

⁴⁴ *ibid*

⁴⁵ *ibid*

⁴⁶ *ibid*

⁴⁷ substituted, SI 2012/1479, Art. 6(3)(e)

⁴⁸ *ibid*

⁴⁹ inserted, SI 2005/1625, Sch., rule 4(4)(a)

⁵⁰ substituted, SI 2012/1479, Art. 6(3)(e)

⁵¹ substituted, SI 2009/1355, Sch., rule 10(c)

⁵² *ibid*

⁵³ substituted, SI 2005/1625, Sch., rule 4(4)(b)

⁵⁴ substituted, SI 2012/1479, Art. 6(3)(e)

⁵⁵ substituted, SI 2005/1625, Sch., rule 4(4)(b)

⁵⁶ substituted, SI 2012/1479, Art. 6(3)(e)

⁵⁷ substituted, SI 2005/1625, Sch., rule 4(4)(b)

⁵⁸ substituted, SI 2012/1479, Art. 6(3)(e)

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- ⁵⁹ substituted, SI 2009/1355, Sch., rule 10(c)
- ⁶⁰ substituted, SI 2012/1479, Art. 6(3)(e)
- ⁶¹ *ibid*
- ⁶² *ibid*
- ⁶³ substituted, SI 2005/1625, Sch., rule 4(4)(b)
- ⁶⁴ substituted, SI 2012/1479, Art. 6(3)(e)
- ⁶⁵ substituted, SI 2009/1355, Sch., rule 10(c)
- ⁶⁶ substituted, SI 2005/1625, Sch., rule 4(4)(b)
- ⁶⁷ substituted, SI 2012/1479, Art. 6(3)(e)
- ⁶⁸ substituted, SI 2023/995, Sch. 1, rule 3(c)
- ⁶⁹ substituted, SI 2012/1479, Art. 6(3)(f)
- ⁷⁰ *ibid*
- ⁷¹ *ibid*
- ⁷² *ibid*
- ⁷³ *ibid*
- ⁷⁴ *ibid*
- ⁷⁵ inserted, 2023/995, Sch. 1, rule 3(d)
- ⁷⁶ substituted, SI 2012/1479, Art. 6(3)(g)
- ⁷⁷ *ibid*
- ⁷⁸ *ibid*
- ⁷⁹ substituted, SI 2009/1355, Sch., rule 10(1)(d)
- ⁸⁰ see 1 above
- ⁸¹ substituted (together with the title), SI 2016/693, Sch., rule 4(2)
- ⁸² substituted, SI 2009/1355, Sch., rule 11(a)
- ⁸³ deleted, SI 2012/1479, Art. 7(2)(a)
- ⁸⁴ inserted, SI 2005/1625, Sch., rule 5(1)(a)
- ⁸⁵ substituted, SI 2019/1094, Sch. 1, para 5
- ⁸⁶ substituted, SI 2012/1479, Art. 7(2)(c)
- ⁸⁷ inserted, SI 2005/1625, Sch., rule 5(1)(b)
- ⁸⁸ inserted, SI 2012/1479, Art. 7(2)(d)

⁸⁹ deleted, SI 2005/1625, Sch., rule 5(1)(c)

⁹⁰ substituted, SI 2021/27, Sch. 1, rule 3(3)

⁹¹ inserted, SI 2021/27, Sch.1, rule 3(3A)

⁹² substituted, SI 2012/1479, Art. 7(3)(b)

⁹³ substituted, SI 2012/1479, Art. 7(3)(c)

⁹⁴ *ibid*

⁹⁵ *ibid*

⁹⁶ *ibid*

⁹⁷ *ibid*

⁹⁸ *ibid*

⁹⁹ substituted, by virtue of s.150A Government of Wales Act 2006

¹⁰⁰ *ibid*

¹⁰¹ *ibid*

¹⁰² inserted, SI 2005/1625, Sch., rule 5(2)

¹⁰³ substituted, SI 2012/1479, Art. 7(2)(d)

¹⁰⁴ *ibid*

¹⁰⁵ *ibid*

¹⁰⁶ substituted, SI 2016/693, Sch., rule 4(3)

¹⁰⁷ substituted, SI 2012/1479, Art. 7(2)(e)

¹⁰⁸ *ibid*

¹⁰⁹ *ibid*

¹¹⁰ *ibid*

¹¹¹ *ibid*

¹¹² *ibid*

¹¹³ *ibid*

¹¹⁴ substituted, SI 2012/1479, Art. 7(2)(f)

¹¹⁵ *ibid*

¹¹⁶ substituted, SI 2012/1479, Art. 7(2)(g)

¹¹⁷ *ibid*

¹¹⁸ spent, by virtue of repeals made by the Protection of Freedoms Act 2012, s.75(6)

¹¹⁹ *ibid*

¹²⁰ inserted, SI 2005/1625, Sch., rule 5(3)(a)

¹²¹ *ibid*

¹²² substituted, SI 2009/1355, Sch., rule 11(c)

¹²³ *ibid*

¹²⁴ substituted, SI 2005/1625, Sch., rule 5(3)(b)

¹²⁵ *ibid*

¹²⁶ *ibid*

¹²⁷ *ibid*

¹²⁸ *ibid*

¹²⁹ *ibid*

¹³⁰ substituted, SI 2009/1355, Sch., rule 11(c)

¹³¹ *ibid*

¹³² *ibid*

¹³³ *ibid*

¹³⁴ substituted, SI 2005/1625, Sch., rule 5(3)(b)

¹³⁵ *ibid*

¹³⁶ substituted, SI 2009/1355, Sch., rule 11(c)

¹³⁷ substituted, SI 2005/1625, Sch., rule 5(3)(b)

¹³⁸ *ibid*

¹³⁹ inserted, SI 2023/995, Sch. 1, rule 4(c)

¹⁴⁰ substituted, SI 2012/1479, Art. 7(2)(h)

¹⁴¹ *ibid*

¹⁴² *ibid*

¹⁴³ *ibid*

¹⁴⁴ *ibid*

¹⁴⁵ *ibid*

¹⁴⁶ inserted, SI 2005/1625, Sch., rule 5(4)

¹⁴⁷ inserted, SI 2023/995, Sch. 1, rule 4(d)

¹⁴⁸ substituted, SI 2012/1479, Art. 7(2)(i)

¹⁴⁹ *ibid*

¹⁵⁰ *ibid*

¹⁵¹ substituted, SI 2012/1479, Art. 7(2)(j)

¹⁵² *ibid*

¹⁵³ substituted, SI 2009/1355, Sch., rule 11(d)

¹⁵⁴ *ibid*

¹⁵⁵ *ibid*

¹⁵⁶ *ibid*

¹⁵⁷ substituted, SI 2023/995, Sch.1, rule 4(e)

¹⁵⁸ substituted, SI 2005/1625, Sch., rule 5(5)

¹⁵⁹ substituted, SI 2009/1355, Sch., rule 11(e)

¹⁶⁰ see 1 above

¹⁶¹ substituted (together with the title), SI 2016/693, Sch., rule 5(2)

¹⁶² substituted, SI 2009/1355, Sch., rule 12(a)

¹⁶³ deleted, SI 2012/1479, Art. 8(2)(a)

¹⁶⁴ inserted, SI 2005/1625, Sch., rule 5(1)(a)

¹⁶⁵ substituted, SI 2019/1094, Sch. 1, para 6

¹⁶⁶ substituted, SI 2012/1479, Art. 8(2)(c)

¹⁶⁷ inserted, SI 2005/1625, Sch., rule 5(1)(b)

¹⁶⁸ substituted, SI 2012/1479, Art. 8(2)(d)

¹⁶⁹ deleted, SI 2005/1625, Sch., rule 5(1)(c)

¹⁷⁰ substituted, SI 2021/27, Sch. 1, rule 4(3)

¹⁷¹ inserted, SI 2021/27, Sch.1, rule 4(3A)

¹⁷² substituted, SI 2012/1479, Art. 8(3)(b)

¹⁷³ substituted, SI 2012/1479, Art. 8(3)(c)

¹⁷⁴ *ibid*

¹⁷⁵ *ibid*

¹⁷⁶ *ibid*

¹⁷⁷ *ibid*

¹⁷⁸ *ibid*

¹⁷⁹ substituted, by virtue of s.150A Government of Wales Act 2006

¹⁸⁰ *ibid*

¹⁸¹ *ibid*

¹⁸² inserted, SI 2005/1625, Sch., rule 5(2)

¹⁸³ substituted, SI 2012/1479, Art. 8(3)(d)

¹⁸⁴ *ibid*

¹⁸⁵ *ibid*

¹⁸⁶ substituted, SI 2016/693, Sch., rule 5(3)

¹⁸⁷ substituted, SI 2012/1479, Art. 8(3)(e)

¹⁸⁸ *ibid*

¹⁸⁹ *ibid*

¹⁹⁰ *ibid*

¹⁹¹ *ibid*

¹⁹² *ibid*

¹⁹³ *ibid*

¹⁹⁴ *ibid*

¹⁹⁵ substituted, SI 2012/1479, Art. 8(3)(f)

¹⁹⁶ *ibid*

¹⁹⁷ substituted, SI 2012/1479, Art. 8(3)(g)

¹⁹⁸ *ibid*

¹⁹⁹ inserted, SI 2005/1625, Sch., rule 5(3)(a)

²⁰⁰ *ibid*

²⁰¹ substituted, SI 2009/1355, Sch., rule 12(c)

²⁰² *ibid*

²⁰³ substituted, SI 2005/1625, Sch., rule 5(3)(b)

²⁰⁴ *ibid*

²⁰⁵ *ibid*

²⁰⁶ *ibid*

²⁰⁷ *ibid*

²⁰⁸ *ibid*

-
- ²⁰⁹ substituted, SI 2009/1355, Sch., rule 12(c)
- ²¹⁰ *ibid*
- ²¹¹ *ibid*
- ²¹² *ibid*
- ²¹³ substituted, SI 2005/1625, Sch., rule 5(3)(b)
- ²¹⁴ *ibid*
- ²¹⁵ substituted, SI 2009/1355, Sch., rule 12(c)
- ²¹⁶ substituted, SI 2005/1625, Sch., rule 5(3)(b)
- ²¹⁷ *ibid*
- ²¹⁸ substituted, SI 2023/995, Sch 1, rule 5(c)
- ²¹⁹ substituted, SI 2012/1479, Art. 8(3)(h)
- ²²⁰ *ibid*
- ²²¹ *ibid*
- ²²² *ibid*
- ²²³ *ibid*
- ²²⁴ *ibid*
- ²²⁵ inserted, SI 2005/1625, Sch., rule 5(4)
- ²²⁶ inserted, SI 2023/995, Sch. 1, 5(d)
- ²²⁷ substituted, SI 2012/1479, Art. 8(3)(i)
- ²²⁸ *ibid*
- ²²⁹ *ibid*
- ²³⁰ substituted, SI 2012/1479, Art. 8(3)(j)
- ²³¹ *ibid*
- ²³² substituted, SI 2009/1355, Sch., rule 12(d)
- ²³³ *ibid*
- ²³⁴ *ibid*
- ²³⁵ *ibid*
- ²³⁶ substituted, SI 2023/995, Sch 1., rule 5(e)
- ²³⁷ substituted, SI 2005/1625, Sch., rule 5(5)
- ²³⁸ substituted, SI 2009/1355, Sch., rule 12(e)