

## **REGISTRATION AND LICENCE TO PRACTISE DECISIONS**

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### **Interpretation**

1. In these Procedures –

“the Act” means the Medical Act 1983;

“application” means any application for registration under the Act, and “applicant” shall be construed accordingly;

“Legal Assessor” means a person falling within paragraph 7(1)(i), (ii) or (iii) of Schedule 4 to the Act (legal assessors) who is appointed to advise the Panel on questions of law arising in proceedings before them;

“meeting” shall be construed to include a meeting held by electronic means;

“Panel” means a Registration Panel constituted under rules made under paragraph 19B of schedule 1 to the Act;

“party” means the practitioner or the General Council (or their representatives), and references to “the parties” shall be construed accordingly.

“practitioner” means a person in respect of whom the Registrar has made a referral to a Panel for advice under paragraph 3(3), 3(4) of these Procedures or under regulation 7 of the General Medical Council (Licence to Practise and Revalidation) Regulations 2012;

“Presenting Officer” means the representative of the General Council instructed by the Registrar to present the case on behalf of the General Council at any hearing before a Panel, and may include solicitor or counsel; and

“regulatory body” shall be construed in accordance with section 35C(9) of the Act (functions of the investigation committee).

### **Functions of the Registrar**

2.- (1) In addition to his specific duties under the Act, the Registrar shall discharge the functions of the General Council under sections 19, 21, 21B, 21C, 27A and 27B of the Act in relation to individual medical practitioners.

(2) In discharging the functions of the General Council described in sub-paragraph (1), the Registrar shall act in accordance with these Procedures.

### **Consideration by the Registrar**

3.- (1) Upon receipt of an application the Registrar may –

(a) require the applicant to produce such further information, documents or reports;

(b) require from any other person such information, documents or reports; and

(c) make such further investigations, and obtain such information, documents or reports, as in his opinion are appropriate to his consideration of the application.

(2) Where the Registrar receives information, documents or reports under sub-paragraph (1)(b) or (c), he shall –

(a) notify the applicant of the information received;

(b) provide the applicant with copies of any documents or reports received; and

(c) allow the applicant at least 28 days to comment on the information, documents or reports.

(3) Before deciding whether or not to grant an application the Registrar may refer any question or matter arising in the course of his consideration of the application to a Panel for advice, in accordance with these Procedures.

(4) Where the Registrar is considering whether to make a direction for erasure under s39 or s44B of the Act he –

(a) may carry out any investigations as are in his opinion appropriate to his consideration of the matter; and

(b) may refer the matter to a Panel for advice, in accordance with these Procedures, on the question of whether a direction for erasure should be made.

#### **Registrar's decision and notice of decision**

4. (1) In making his decision on whether or not to grant an application, the Registrar shall take into account –

(a) any information, documents and reports submitted by the applicant;

(b) any information, documents or reports received in accordance with paragraph 3(1)(b) or (c);

(c) any advice tendered by the Panel in accordance with the provisions of these Procedures.

(2) The Registrar shall send the applicant written notice of his decision which shall –

(a) where the Registrar has refused the application, set out the reasons for his decision;

(b) where the Registrar has refused the application, inform the applicant of his right of appeal to the Registration Appeals Panel; and

(c) where the Registrar has considered advice from a Panel in making his decision, include a written record of the Panel's advice.

## **Consideration by the Panel of questions or matters arising**

5.- (1) Except in the circumstances set out in sub-paragraph (2), the Panel shall consider any matter referred to it by the Registrar under paragraph 3(3), or under regulation 7 of the General Medical Council (Licence to Practise and Revalidation) Regulations 2012, at a meeting held in the absence of the parties.

(2) The Registrar shall require the Panel to consider the matters referred to in sub-paragraph (1) at a hearing if in his opinion there is a dispute between the parties regarding any facts alleged.

## **Notice of referral**

6.- (1) As soon as reasonably practicable following referral of a matter for consideration under paragraph 5(1), the Registrar shall send to the practitioner a notice of referral which shall-

(a) particularise the matters in respect of which the Registrar is seeking advice from the Panel, and any facts alleged;

(b) enclose copies of any documents to be put before the Panel by the Registrar;

(c) invite the practitioner to make written representations to the Panel and to submit to the Panel copies of any other documents he considers to be relevant to the Panel's consideration, such representations and copy documents to be received by the Registrar no later than 14 days before the meeting.

(2) As soon as reasonably practicable following referral of a matter for consideration under paragraph 5(2), and no less than 28 days before the date of the hearing, the Registrar shall send to the practitioner a notice of hearing which shall-

(a) particularise-

(i) the matters in respect of which the Registrar is seeking advice from the Panel, and

(ii) any relevant facts;

(b) enclose copies of any documents to be put before the Panel by the Registrar;

(c) state that the matters will be considered at a hearing before the Panel and specify the date, time and venue of the hearing;

(d) inform the practitioner of his right to attend the hearing and to be represented at the hearing in accordance with paragraph 10;

(e) inform the practitioner of the power of the Panel to proceed in his absence under paragraph 11; and

(f) inform the practitioner of his right to adduce evidence in accordance with paragraph 12.

(3) Following service of a notice of hearing under sub-paragraph (2), the Registrar may, provided that he gives the practitioner no less than 7 days' notice, alter the precise time and venue of the hearing.

## **Documents**

7.- (1) Subject to sub-paragraph (2), the Registrar shall provide the Panel with copies of-

(a) the notice of referral or notice of hearing, as the case may be;

(b) any documents received by the Registrar, which he considers to be relevant to the matter referred and which have been served upon the practitioner in accordance with paragraph 6(1)(b) or 6(2)(b);

(c) copies of written representations or other documents submitted to the Registrar by the practitioner under paragraph 6(1)(c).

(2) Where the Registrar has referred a matter for consideration at a hearing before a Panel, he shall provide the Panel with the documents under sub-paragraph (1) only after obtaining the agreement of the practitioner.

## **Procedure at a Panel meeting**

8.- (1) Subject to sub-paragraph (2) and (3), a Panel shall decide its own procedure when considering a matter under paragraph 5(1).

(2) When considering what advice to tender to the Registrar, the Panel shall take into account the written representations and documents referred to in paragraph 7(1) above.

(3) The Panel may at any time adjourn its consideration of the matter in order to obtain further information or advice.

## **Procedure at a hearing before a Panel**

- 9.- (1) A Panel shall consider any matters referred to it for consideration at a hearing in accordance with this paragraph.
- (2) The Registrar shall appoint a Legal Assessor to advise the Panel on questions of law as if the General Medical Council (Legal Assessors) Rules 2004 applied.
- (3) The Panel may at any time, whether of its own motion or upon the application of a party, adjourn the proceedings until such time and date as it thinks fit.
- (4) The order of proceedings at the hearing shall be as follows-
- (a) the Panel shall hear and consider any preliminary legal arguments;
  - (b) the Chairman of the Panel shall –
    - (i) where the practitioner is present, require him to confirm his name and, where appropriate, GMC Reference Number; or
    - (ii) otherwise, require the Presenting Officer to confirm the practitioner's name and, where appropriate, GMC Reference Number;
  - (c) the Presenting Officer shall –
    - (i) address the Panel regarding the matters in respect of which the Registrar seeks advice from the Panel; and
    - (ii) direct the attention of the Panel to any relevant evidence, and may adduce evidence and call witnesses in relation to facts in dispute or matters which are relevant to the Panel's consideration;
  - (d) the practitioner may address the Panel and adduce evidence and call witnesses in relation to any matters which are relevant to the Panel's consideration;
  - (e) where the Panel receives oral evidence, witnesses shall be required to take an oath or to affirm, and –
    - (i) shall first be examined by the party calling them;
    - (ii) may then be cross-examined by the opposing party;
    - (iii) may then be re-examined by the party calling them; and

(iv) may at anytime be questioned by the Panel;

(f) the Panel shall consider and announce any findings of fact;

(g) the Panel may receive further evidence and hear any further submissions from the parties in relation to its decision regarding the advice it will tender to the Registrar; and

(h) the Panel shall then consider and announce the advice it has decided to tender to the Registrar, and shall give reasons for that advice.

### **Representation and entitlement to be heard**

10.- (1) At a hearing, the practitioner may be represented by-

(a) a solicitor or counsel;

(b) a representative from any professional organisation of which he is a member; or

(c) at the discretion of the Panel, a member of his family or other person.

(2) A person who gives evidence at a hearing shall not be entitled to represent or accompany the practitioner at that hearing.

(3) The practitioner (either in person or by a representative under paragraph (1)) and the Presenting Officer shall be entitled to be heard by the Panel.

### **Absence of the practitioner**

11. Where the practitioner is neither present nor represented at a hearing, the Panel may nevertheless proceed to consider the matters referred to the Panel if it is satisfied that all reasonable efforts have been made to serve the practitioner with notice of the hearing in accordance with these Procedures.

### **Evidence**

12.- (1) The Panel may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.

(2) Where evidence would not be admissible in criminal proceedings in England, the Panel shall not admit such evidence unless, on the advice of the Legal Assessor, they are satisfied that their duty of making due inquiry into the case before them makes its admission desirable.

(3) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.

(4) Production of a certificate signed by an officer of a regulatory body that has made a determination about the fitness to practise of a person shall be conclusive evidence of the facts found proved in relation to that determination.

(5) The only evidence which may be adduced by the practitioner in rebuttal of a conviction or determination certified in the manner specified in paragraph (4) or (5) is evidence for the purposes of proving that he is not the person referred to in the certificate or extract.

(6) The practitioner may admit a fact or description of a fact, and a fact or description of a fact so admitted may be treated as proved.

(7) A copy of a document of which the original is admissible may be received by the Panel without strict proof.

### **Public and private hearings**

13.- (1) Subject to sub-paragraphs (2) to (4), proceedings at a hearing before a Panel shall be conducted in public.

(2) The Panel may, after hearing any representations the parties may wish to make on the matter, determine that the public shall be excluded from the proceedings or any part of the proceedings, where –

(a) they consider that the particular circumstances of the case outweigh the public interest in holding the hearing in public; and

(b) a decision to exclude the public causes no prejudice to the practitioner.

(3) The Panel may deliberate in camera, in the absence of the parties and of their representatives and of the public, at any time.

(4) The Panel may exclude from the whole or part of any hearing, any person whose conduct, in the opinion of the Panel, has disrupted or is likely to disrupt the proceedings.

### **Voting**

- 14.- (1) Decisions of the Panel shall be made by simple majority.
- (2) The Chairman of the Panel shall not have a casting vote.
- (3) No member of the Panel may abstain from voting.
- (4) Where the Panel is making its findings of fact under paragraph 9(4)(f), where the votes are equal, the Panel shall decide the issue in favour of the practitioner.
- (5) Subject to sub-paragraph (4), where the votes are equal, the Panel shall decide the issue against the practitioner.

### **Record of advice**

- 15.- (1) As soon as practicable following a Panel's consideration of a matter referred to it under paragraph 5(1) or 5(2), the person acting as secretary to the Panel shall notify the Registrar in writing of –
- (a) any legal advice received by the Panel;
  - (b) any findings of fact made by the Panel; and
  - (c) the advice the Panel has decided to tender to the Registrar, and its reasons for that advice.

### **Service**

- 16.- (1) Any notice required to be given to the practitioner in this Chapter shall be served on him at his proper address by –
- (a) delivering it to him;
  - (b) leaving it at his proper address;
  - (c) sending it by a registered postal service; or
  - (d) sending it by a postal service which provides for the delivery or receipt of the notice to be recorded.
- (2) For the purposes of sub-paragraph (1), a practitioner's proper address shall be his registered address or his last known address where –
- (a) he is not registered; or
  - (b) where it appears to the person or body serving the notice that it is more likely to reach him there.

- (3) If the practitioner is represented by—
- (a) a solicitor, the notice or document may also be—
    - (i) sent or delivered to the solicitor’s practising address, or
    - (ii) sent by electronic mail to an electronic mail address of the solicitor; or
  - (b) a trade union or defence organisation, the notice or document may also be—
    - (i) sent or delivered to the trade union or defence organisation’s business address; or
    - (ii) sent by electronic mail to an electronic mail address of the trade union or defence organisation, where the address has been notified to the Registrar as an address for communications.
- (4) The service of any notice or document under these Procedures may be proved by—
- (a) a confirmation of posting issued by or on behalf of the Post Office, or  
other postal operator or delivery service;
  - (b) a confirmation of receipt of the notice or document sent by electronic mail; or
  - (c) a signed statement from any person serving the notice or document confirming that the notice or document was delivered to, sent to or left at—
    - (i) the practitioner’s proper address,
    - (ii) the practising address or electronic mail address of the practitioner’s solicitor, or
    - (iii) the business address or electronic mail address of the practitioner’s  
trade union or defence organisation.