

## SCHEDULE

### THE GENERAL MEDICAL COUNCIL (INTERIM ORDERS COMMITTEE) (PROCEDURE) RULES 2000

The General Medical Council, in exercise of their powers under paragraph 1(1) of Schedule 4 to the Medical Act 1983(1), after consulting with such bodies of persons representing medical practitioners as appear to the Council to be requisite to be consulted, and of all other powers enabling the Council in that behalf, hereby make the following Rules:

#### **Citation and commencement**

1. These Rules may be cited as the General Medical Council (Interim Orders Committee) (Procedure) Rules 2000 and shall come into force on 3rd August 2000.

#### **Interpretation**

2.—(1) In these Rules—

“the Act” means the Medical Act 1983;

“the Committee” means the Interim Orders Committee;

“the Council” means the General Medical Council or a Committee of the Council acting under delegated powers;

“initial hearing” means the first hearing of the Committee after a case has been referred to the Committee including such a hearing that has been adjourned;

“legal assessor” means an assessor appointed by the General Council under paragraph 7 of Schedule 4 to the Act;

“party” means any person to whose registration the proceedings before the Committee relate and the Solicitor;

“practitioner” means a registered medical practitioner whose professional conduct, fitness to practise by reason of a physical or mental condition or standard of professional performance is called into question and includes a person whose registration is currently suspended;

“President” means the President of the Council;

“review hearing” means a hearing of the Committee that is held in accordance with section 41A(2)(a) of the Act or under paragraph (2)(b) of that section;

“the Solicitor” means any Solicitor or any firm of Solicitors appointed by the Council or any partner of such a firm.

(2) A reference—

(a) in these Rules to a numbered rule is a reference to the rule bearing that number in these Rules; and

(b) in a rule in these Rules to a numbered paragraph is a reference to the paragraph bearing that number in that rule.

#### **Service of documents**

3.—(1) Any notice or other document required by any provision of these Rules to be given or sent to a practitioner may be given or sent by delivering it or sending it to him by registered post or by a postal service in which a delivery or receipt is recorded to his address in the Register or, if his last-known address differs from the address in the Register, his last-known address.

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(1) 1983 c. 54. Paragraph 1(1) was amended by article 16 of the Medical Act 1983 (Amendment) Order 2000 (S.I.2000/1803).

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(2) In any other circumstances, documents sent for the purposes of these Rules may be sent by post.

#### **Reference to the Committee**

4. The Committee shall accept any case referred to it by—
- (a) the President;
  - (b) a person referred to in rule 4(1) (“the medical screener”) of the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988(2);
  - (c) the Preliminary Proceedings Committee;
  - (d) the Professional Conduct Committee;
  - (e) a person referred to in rule 5(1) of the General Medical Council Health Committee (Procedure) Rules 1987(3);
  - (f) the Health Committee;
  - (g) a person appointed under rule 3 (“the medical screener”) or rule 7 (“the case co-ordinator”) of the General Medical Council (Professional Performance) Rules 1997(4);
  - (h) the Assessment Referral Committee;
  - (i) the Committee on Professional Performance.

#### **Initial Hearing**

5.—(1) Before the initial hearing the Registrar shall send the practitioner a notice (“the notice of referral”) which shall—

- (a) inform the practitioner of the referral;
- (b) provide a brief statement of the matters which appear to raise the question whether—
  - (i) the registration of the practitioner should be suspended or be made subject to conditions, and
  - (ii) such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the practitioner or both;
- (c) state the day on which and the time and place at which the Committee are to hold a hearing of the case;
- (d) invite the practitioner to—
  - (i) submit observations on the case in writing, and
  - (ii) state whether he proposes to attend the hearing; and
- (e) inform the practitioner that he may be represented or accompanied at the hearing in accordance with rule 9.

(2) The Registrar shall give the practitioner such notice of the date of the hearing as is reasonable in all the circumstances of the case.

(3) The Registrar shall send the practitioner a copy of these Rules with the notice of referral and copies of any documents received in connection with the case.

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(2) S.I. 1988/2255 amended by S.I. 1989/656, 1990/1587, 1994/2022, 1996/2125 and 1997/1529.

(3) S.I. 1987/2174 amended by S.I. 1996/1219 and 1997/1529.

(4) S.I. 1997/1529.

### **Review hearing**

6.—(1) Before a review hearing the Registrar shall send the practitioner a notice (“the notice of review”) which shall—

- (a) inform the practitioner that a review hearing is to be held;
- (b) state the date on which and the time and place at which the Committee are to hold the review hearing;
- (c) invite the practitioner to—
  - (i) submit observations on the review in writing, and
  - (ii) state whether he proposes to attend the hearing; and
- (d) inform the practitioner that he may be represented or accompanied at the hearing in accordance with rule 9.

(2) The Registrar shall give the practitioner such notice of the date of the hearing as is reasonable in all the circumstances of the case.

### **Postponement or adjournment of hearing**

7.—(1) The Chairman of the Committee, either of his own motion or at the request in writing of the practitioner, may postpone an initial hearing or a review hearing at any time before the beginning of the hearing.

(2) The Committee may adjourn any of their proceedings or meetings from time to time as they think fit.

### **Absence of practitioner at the hearing**

8. Where the practitioner is neither present nor represented at an initial hearing or a review hearing, the Committee may nevertheless proceed with the hearing if they are satisfied that all reasonable efforts have been made in accordance with rules 3 and 5 to serve the notice of referral or the notice of review as the case may be.

### **Entitlement to be heard, representation and presence at hearings**

9.—(1) At both an initial hearing and a review hearing the practitioner and the Solicitor shall be entitled to be heard by the Committee.

(2) The practitioner may be represented by counsel or by a solicitor and, subject to paragraph (3), may be represented or accompanied by an officer of any professional organisation of which he is a member, by a member of his family and additionally may be accompanied by a medical adviser.

(3) A person who represents or accompanies the practitioner shall not be entitled to give oral evidence at the hearing.

(4) The Solicitor may be heard in person or by counsel.

(5) For the purpose of arriving at any decision relating to the proceedings, the Committee shall exclude the practitioner, his representative and any person accompanying him, the Solicitor and, where the hearing is in public, members of the public.

### **Public and private hearings**

10.—(1) Except as provided in paragraph (2), initial hearings and review hearings shall be held in private.

(2) Initial hearings and review hearings shall be held in public whenever the practitioner so requests.

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(3) Notwithstanding the practitioner's request that a hearing be held in public, the Committee may direct that, while any information relating to the medical history or condition of any person is being given to the Committee, all persons who are not concerned with the hearing shall withdraw from the hearing.

(4) In this paragraph, a person is not concerned with the hearing if he is not—

- (a) a member of the Committee or the legal assessor;
- (b) the practitioner, the person representing him or his medical adviser;
- (c) a person giving oral evidence to the Committee;
- (d) a person acting as secretary to the Committee;
- (e) a shorthand writer appointed under rule 14(1); or
- (f) a person with leave of the Chairman of the Committee to remain at the hearing.

#### **Evidence and procedure—initial hearing**

**11.**—(1) Before an initial hearing (other than a hearing that has been adjourned) the Registrar shall make available to each member of the Committee—

- (a) a copy of the notice of referral;
- (b) all the documents that have been produced in connection with the case; and
- (c) any observations in writing submitted by or on behalf of the practitioner in connection with his case to the Committee under rule 5.

(2) The Registrar shall make available to the practitioner all the documents that have been made available to the members of the Committee under paragraph(1)(b).

(3) The Committee may, subject to paragraph (4), receive oral, documentary or other evidence of any fact or matter which appears to them relevant to the inquiry into the case before them.

(4) No person shall give oral evidence at the hearing unless the Committee consider such evidence is necessary to enable them to discharge their functions under paragraph (9).

(5) The Committee may, at any stage in their proceedings—

- (a) with the consent of the practitioner; or
- (b) where, after consultation with the legal assessor, they are satisfied that its reception is desirable to enable them to perform their duty,

allow a party to produce at the hearing any written evidence, notwithstanding that a copy has not been given to the other party before the hearing or that its author is not being called as a witness and, where such evidence is produced at the hearing, a copy shall be given to the practitioner.

(6) At the hearing, the Committee may invite the Solicitor to address them as to whether an order under section 41A(1) of the Act<sup>(5)</sup> should be made and the practitioner shall be given the opportunity to speak last but, subject to this, the procedure at the hearing shall be such as the Committee may determine.

(7) At the hearing, the Solicitor and the practitioner may, subject to paragraph (4), call witnesses and may put questions to any person called as a witness.

(8) Members of the Committee and the legal assessor may put questions to any person called as a witness and to the practitioner.

(9) If the Committee are satisfied that it is necessary for the protection of members of the public or otherwise in the public interest or in the interests of the practitioner that an order be made under section 41A(1) of the Act, they shall decide whether to make an order—

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(5) Section 41A was inserted by article 10 of the Medical Act 1983 (Amendment) Order (S.I. 2000/1803).

- (a) that the registration of the practitioner be subject to such conditions as are specified in the order; or
  - (b) suspending the registration of the practitioner,
- and in either case specify the period, not exceeding eighteen months, during which the order is to be in force.

### **Evidence and procedure—review hearing**

**12.**—(1) Before a review hearing (other than a hearing that has been adjourned) the Registrar shall make available to each member of the Committee—

- (a) a copy of the order which is to be reviewed and the reasons for the making of the order,
- (b) all the documents that have been produced in connection with case at the initial hearing and all the documents that have been produced since the order was made;
- (c) any observations in writing submitted by or on behalf of the practitioner in connection with his case to the Committee under rule 6.

(2) The Registrar shall make available to the practitioner all the documents that have been made available to members of the Committee under paragraph (1)(b).

(3) Paragraphs (4) and (5) of rule 11 shall apply to a review hearing as they apply to an initial hearing.

(4) At the hearing, the Committee may invite the Solicitor to address them on the matters referred to in paragraph (7) and, where relevant, paragraph (8) and the practitioner shall be given the opportunity to speak last but, subject to this, the procedure at the hearing shall be such as the Committee may determine.

(5) At the hearing, the Solicitor and the practitioner may, subject to paragraph (3), call witnesses and may put questions to any person called as a witness.

(6) Members of the Committee and the legal assessor may put questions to any person called as a witness and to the practitioner.

(7) The Committee shall decide whether, having reviewed the order which is subject to the review—

- (a) to take no action;
- (b) to revoke the order or revoke any condition imposed by the order;
- (c) to vary any condition imposed by the order;
- (d) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the practitioner, to replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former; or
- (e) if satisfied that the public interest, including the protection of members of the public, or the interests of the practitioner would be adequately served by an order for interim conditional registration, to replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former.

(8) Where a review hearing is, or is likely to be, the last such hearing before an interim suspension order or an order for interim conditional registration as the case may be comes to an end, the Committee shall, in addition to reviewing the order, determine whether the order should be extended and if the Committee determine that it should be extended, direct the Registrar to apply to the court under section 41A(6) of the Act.

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## **Voting**

**13.—**(1) The Committee may only make an interim suspension order or an order for interim conditional registration in respect of a practitioner or revoke such an order if the majority of members who are present determine that such an order should be made.

(2) Where a question for decision by the Committee arises during the course of a hearing (other than the decision whether to make an order referred to in paragraph (1)), the Committee's decision on the question shall only be taken to be favourable to the party raising the question if the majority of the members present have concurred in the decision.

## **Decision of the Committee**

**14.—**(1) The Chairman of the Committee shall give the decision of the Committee, and brief reasons for the decision, orally at the end of the hearing.

(2) The person acting as secretary to the Committee shall—

- (a) record in writing the decision of the Committee and the brief reasons for the decision;
  - (b) publish the outcome of the hearing;
  - (c) as soon as practicable after the hearing, send a copy of the decision and the brief reasons for the decision to—
    - (i) the practitioner, and
    - (ii) the person or committee from whom the Committee accepted the case under rule 4; and
  - (d) notify the practitioner of his right to apply to the court under section 41A(10) of the Act.
- (3) In this rule “court” has the same meaning as in section 38(7) of the Act.

## **Revocation where no further action is taken**

**15.** Where an order has been made under section 41A(1) of the Act in relation to a practitioner and any one of the following, namely—

- (a) the President;
- (b) a person referred to in rule 4(1) (“the medical screener”) of the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1998;
- (c) the Preliminary Proceedings Committee;
- (d) the Professional Conduct Committee;
- (e) a person referred to in rule 5(1) of the General Medical Council Health Committee (Procedure) Rules 1987;
- (f) the Health Committee;
- (g) a person appointed under rule 3 (“the medical screener”) or rule 7 (“the case co-ordinator”) of the General Medical Council (Professional Performance) Rules 1997;
- (h) the Assessment Referral Committee; or
- (i) the Committee on Professional Performance

determine that no further action needs to be taken in relation to the practitioner's registration, the Chairman of the Committee shall without delay revoke the order.

**Notes and transcript of proceedings**

16.—(1) A shorthand writer shall be appointed by the Registrar to take a shorthand note of the proceedings of the Committee.

(2) The practitioner shall, on application to the Solicitor, be sent a transcript of the shorthand note.

(3) Paragraphs (1) and (2) shall not apply to the deliberations of the Committee.

Given under the official seal of the General Medical Council this twelfth day of July 2000

L.S.

*Sir Donald Irvine*  
President