
STATUTORY INSTRUMENTS

2002 No. 253

The Nursing and Midwifery Order 2001

PART V

FITNESS TO PRACTISE

Investigation of allegations: procedural rules

32.—(1) The Council shall make rules as to the procedure to be followed by the [^{F1}Fitness to Practise Committee] in considering any allegation and before making an order under article 29(5).

(2) The rules shall, in particular, make provision—

^{F2}(a)

(b) empowering [^{F3}the Fitness to Practise Committee], before it holds any hearing to which sub-paragraph (f) applies, where it considers that it would assist it in performing its functions, to hold a preliminary meeting in private attended by the parties and their representatives and any other person it thinks appropriate;

(c) requiring the person concerned to be given notice of the allegation without delay;

(d) giving the person concerned an opportunity to submit written representations within a prescribed period;

(e) for the Committee, where it sees fit, to notify the person making the allegation of the representations provided under sub-paragraph (d) and to invite him to deal within a prescribed period with any points raised by the Committee in respect of those representations;

(f) giving the person concerned an opportunity to put his case at a hearing if—

(i) before the end of the prescribed period, he asks for a hearing; or

(ii) the Committee considers that a hearing is desirable;

(g) entitling the person concerned to be represented whether by a legally qualified person or otherwise at any such hearing;

^{F4}(h) where an allegation is referred by the Council ^{F5}... or the Investigating Committee to the Fitness to Practise Committee, for the Council to give notice of that referral to, where they are known, any person referred to in article 25(2);]

(i) giving any person, other than the person concerned, who, in the opinion of the relevant Committee, taking account of any criteria included in the rules, has an interest in proceedings before it, the opportunity to submit written representations;

(j) requiring a hearing before [^{F6}the Fitness to Practise Committee] to be held in public except in so far as may be provided by the rules;

(k) requiring the Committee to notify the person concerned of its decision, its reasons for reaching that decision and of his right of appeal;

- (l) requiring the person by whom the allegation was made to be notified by the Committee of its decision and of its reasons for reaching that decision;
- (m) empowering the Committee to require persons (other than the person concerned) to attend and give evidence or to produce documents;
- (n) about the admissibility of evidence;
- (o) enabling the Committee to administer oaths;
- (p) where the person concerned has been convicted of a criminal offence, for the conviction to be proved by the production of a certified copy of the certificate of conviction, or, in Scotland, an extract conviction, relating to the offence and for the findings of fact upon which the conviction is based to be admissible as proof of those facts.

(3) Each stage in proceedings under Part V and article 37 shall be dealt with expeditiously and the [^{F7}Fitness to Practise Committee] may give directions as to the conduct of the case and for the consequences of failure to comply with such directions (which may include the making of an order or refusal of an application if the failure to comply was without reasonable excuse).

(4) The Council may provide in the rules for the [^{F8}chair] of the [^{F9}Fitness to Practise] Committee to hold the meeting referred to in paragraph (2)(b) or to give the directions mentioned in paragraph (3) and, subject to the agreement of the parties to his acting on behalf of the Committee, to take such action as the Committee would be competent to take at such a meeting.

(5) In this article “parties” means the Council and the person concerned.

Textual Amendments

- F1** Words in art. 32(1) substituted (28.7.2017) by *The Nursing and Midwifery (Amendment) Order 2017* (S.I. 2017/321), art. 1(4), **Sch. 1 para. 14(a)** (with art. 3)
- F2** Art. 32(2)(a) omitted (28.7.2017) by virtue of *The Nursing and Midwifery (Amendment) Order 2017* (S.I. 2017/321), art. 1(4), **Sch. 1 para. 14(b)(i)** (with art. 3)
- F3** Words in art. 32(2)(b) substituted (28.7.2017) by *The Nursing and Midwifery (Amendment) Order 2017* (S.I. 2017/321), art. 1(4), **Sch. 1 para. 14(b)(ii)** (with art. 3)
- F4** Art. 32(2)(h) substituted (28.7.2017) by *The Nursing and Midwifery (Amendment) Order 2017* (S.I. 2017/321), art. 1(4), **Sch. 1 para. 14(b)(iii)** (with art. 3)
- F5** Word in art. 32(2)(h) omitted (28.1.2019) by virtue of *The Nursing and Midwifery (Amendment) Order 2018* (S.I. 2018/838), art. 1(3), **Sch. 1 para. 22**
- F6** Words in art. 32(2)(j) substituted (28.7.2017) by *The Nursing and Midwifery (Amendment) Order 2017* (S.I. 2017/321), art. 1(4), **Sch. 1 para. 14(b)(iv)** (with art. 3)
- F7** Words in art. 32(3) substituted (28.7.2017) by *The Nursing and Midwifery (Amendment) Order 2017* (S.I. 2017/321), art. 1(4), **Sch. 1 para. 14(c)** (with art. 3)
- F8** Word in art. 32(4) substituted (1.1.2009 as notified in the London Gazette (Issue 58904, published 5.12.2008)) by *The Nursing and Midwifery (Amendment) Order 2008* (S.I. 2008/1485), **Sch. 1 para. 5**
- F9** Words in art. 32(4) inserted (28.7.2017) by *The Nursing and Midwifery (Amendment) Order 2017* (S.I. 2017/321), art. 1(4), **Sch. 1 para. 14(d)** (with art. 3)

Modifications etc. (not altering text)

- C1** Pt. V applied (with modifications) (1.8.2004) by *The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004* (S.I. 2004/1762), arts. 1(1), **7(4)(b)**
- C2** Pt. V applied (with modifications) (1.8.2004) by *The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004* (S.I. 2004/1762), arts. 1(1), **6(b)**

Commencement Information

- I1** Art. 32 in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see **art. 1(2)(3)**

Changes to legislation: *There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001, Section 32. (See end of Document for details)*

- I2** [Art. 32](#) in force at 1.8.2004 in so far as not already in force as notified in the London Gazette (Issue 57361, published 21.7.2004), see [art. 1\(2\)\(3\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Nursing and Midwifery Order 2001, Section 32.