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## STATUTORY INSTRUMENTS

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# 2002 No. 254

## The Health Professions Order 2001

### PART V

#### FITNESS TO PRACTISE

PROSPECTIVE

#### The Investigating Committee

**26.**—(1) The Investigating Committee shall investigate any allegation which is referred to it in accordance with article 22 or 24.

(2) Where an allegation is referred to the Investigating Committee, it shall—

- (a) notify without delay the person concerned of the allegation and invite him to submit written representations within a prescribed period;
- (b) where it sees fit, notify the person making the allegation of the representations mentioned in sub-paragraph (a) and invite him to deal within a specified period with any points raised by the Committee in respect of those representations;
- (c) take such other steps as are reasonably practicable to obtain as much information as possible about the case;
- (d) consider, in the light of the information which it has been able to obtain and any representations or other observations made to it under sub-paragraph (a) or (b), whether in its opinion—
  - (i) in respect of an allegation of the kind mentioned in article 22(1)(a), there is a case to answer, and
  - (ii) in respect of an allegation of the kind mentioned in article 22(1)(b), whether the entry concerned has been fraudulently procured or incorrectly made.

(3) The Council shall by rules make provision as to the procedure to be followed by the Investigating Committee in any investigation carried out by it under this article.

(4) In the case of an allegation of the kind mentioned in article 22(1)(b) the rules shall, in particular, make similar provision to that made by virtue of article 32(2)(b), (f), (g), (h), (i), (j), (m), (n), (o) and (p) and may provide for the Registrar to be made a party to the proceedings.

(5) When the Investigating Committee reaches a decision under paragraph (2) as to whether—

- (a) there is a case to answer; or
- (b) an entry in the register has been fraudulently procured or incorrectly made,

it shall notify in writing both the person concerned and the person making the allegation, if any, of its decision, giving its reasons.

(6) Where the Investigating Committee concludes that there is a case to answer under paragraph (2)(d)(i), it shall—

**Status:** This version of this provision is prospective.

**Changes to legislation:** There are outstanding changes not yet made by the [legislation.gov.uk](https://legislation.gov.uk) editorial team to *The Health Professions Order 2001*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (a) undertake mediation; or
- (b) refer the case—
  - (i) to Screeners for them to undertake mediation,
  - (ii) to the Health Committee in the case of an allegation of a kind mentioned in article 22(1)(a)(iv), or
  - (iii) to the Conduct and Competence Committee, in the case of any other allegation.

(7) In the case of an allegation of a kind mentioned in article 22(1)(b), if the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.

(8) If the Investigating Committee concludes that there is no case to answer or that the relevant entry was not fraudulently procured or incorrectly made—

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect, giving its reasons; and
- (b) in any other case and with the consent of the person concerned, may make such a declaration.

(9) For the purposes of paragraph (8), the publication of the decision mentioned in paragraph (5) together with the reasons for it may constitute such a declaration.

(10) No order made under paragraph (7) shall have effect—

- (a) before the expiry of the period within which an appeal against the order may be made; or
- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

(11) The Investigating Committee may make an interim order in accordance with article 31 at the same time as making an order under paragraph (7) or at any time before referring a case to the Health Committee or the Conduct and Competence Committee under paragraph (6).

(12) The Investigating Committee may review an order made under paragraph (7) if new evidence relevant to the order becomes available after the order has been made and may revoke that order if it considers that it should not have been made.

(13) Where the Investigating Committee makes an order under paragraph (7), or decides not to review such an order under paragraph (12), the person concerned may appeal to the appropriate Court and the provisions of article 38 shall apply to the appeal.

(14) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(15) On an appeal under this article, the Council shall be the respondent.

(16) An entry which has been restored to the register on an application for readmission or restoration being granted may be treated for the purposes of this article as having been fraudulently procured or incorrectly made if any previous entry from which the restored entry is derived was fraudulently procured or incorrectly made.

#### Commencement Information

- II** Art. 26 not in force at made date, see [art. 1\(2\)](#)

**Status:**

This version of this provision is prospective.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Health Professions Order 2001. Any changes that have already been made by the team appear in the content and are referenced with annotations.

View outstanding changes

**Changes and effects yet to be applied to :**

- Order title substituted by [2012 c. 7 s. 213\(6\)](#)
- Order title substituted by [2017 c. 16 Sch. 5 para. 45](#)
- art. 26 coming into force by [S.I. 2002/254 art. 1\(3\)](#) (See transitional provisions in [S.I. 2003/1700](#))
- art. 26 continued by [S.I. 2019/1140 reg. 23\(2\)](#)
- art. 26(2)(a)(3)(4) coming into force by [S.I. 2002/254 art. 1\(3\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 1A(1)(b)(ia) inserted by [2012 c. 7 s. 213\(5\)](#)
- Sch. 1 para. 19(10A)-(10C) inserted by [2015 c. 28 Sch. para. 6\(4\)](#)
- Sch. 1 para. 1(2A) inserted by [S.I. 2009/1182 Sch. 2 para. 17\(1\)\(a\)\(iii\)](#)
- Sch. 1 para. 1(5) inserted by [S.I. 2009/1182 Sch. 2 para. 18\(b\)](#)
- Sch. 1 para. 9(1A)(1B) inserted by [S.I. 2009/1182 Sch. 2 para. 17\(1\)\(c\)\(ii\)](#)
- Sch. 1 para. 9(1C) inserted by [S.I. 2009/1182 Sch. 2 para. 18\(f\)\(ii\)](#)
- Sch. 1 para. 1A(1)(b)(ia) omitted by [2017 c. 16 Sch. 5 para. 26](#)
- Sch. 1 para. 1A(4) omitted by [S.I. 2013/235 Sch. 2 para. 52](#)
- Sch. 1 para. 16A revoked by [2006 c. 28 Sch. 8 para. 48](#)[Sch. 9](#)
- Sch. 1 para. 17(1)-(2B) substituted for Sch. 1 para. 17(1)(2) by [S.I. 2009/1182 Sch. 2 para. 15\(7\)](#)
- Sch. 1 para. 1A1B substituted for Sch. 1 paras. 1-12 by [S.I. 2009/1182 Sch. 2 para. 15\(2\)](#)
- Sch. 1 Pt. 1 para. 16A inserted by [2003 c. 43 Sch. 12 para. 8](#)
- Sch. 2 para. 25-27 added by [S.I. 2004/2033 art. 3\(3\)\(f\)](#)
- Sch. 2 para. 25 coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- Sch. 2 para. 26 coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- Sch. 2 para. 27 coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- Sch. 2 para. 3(4A) inserted by [S.I. 2004/2033 art. 3\(3\)\(c\)](#)
- art. 3(4)(4A) substituted for art. 3(4) by [2015 c. 28 Sch. para. 6\(2\)](#)
- art. 3(5)-(5B) substituted for art. 3(5) by [S.I. 2009/1182 Sch. 2 para. 1\(a\)](#)
- art. 3(5)(b)(vi)(vii) inserted by [2012 c. 7 s. 215\(2\)\(c\)](#)
- art. 3(5)(b)(vi)(vii) omitted by [2017 c. 16 Sch. 5 para. 11\(2\)\(c\)](#)
- art. 3(5AA) inserted by [2012 c. 7 s. 215\(3\)](#)
- art. 3(5AA) omitted by [2017 c. 16 Sch. 5 para. 11\(3\)](#)
- art. 3(5ZA) inserted by [2012 c. 7 s. 218\(3\)](#)
- art. 3(7A) inserted by [S.I. 2009/1182 Sch. 2 para. 1\(c\)](#)
- art. 3(17A) inserted by [2012 c. 7 s. 215\(4\)](#)
- art. 6(3)(aa) inserted by [S.I. 2007/3101 reg. 267](#)
- art. 6(3)(aa) omitted by [S.I. 2019/593 Sch. 8 para. 3](#)
- art. 6(3)(aa) words inserted by [2012 c. 7 s. 215\(5\)](#)

- art. 6(3)(aa) words omitted by 2017 c. 16 Sch. 5 para. 12
- art. 7(4) inserted by S.I. 2007/3101 reg. 268
- art. 7(4) omitted by S.I. 2019/593 Sch. 8 para. 4
- art. 7(4) words inserted by 2012 c. 7 s. 215(5)(b)
- art. 7(4) words omitted by 2017 c. 16 Sch. 5 para. 13
- art. 9(2)(ba) inserted by S.I. 2014/1887 Sch. 1 para. 12(d)
- art. 9(3A) inserted by S.I. 2014/1887 Sch. 1 para. 12(e)
- art. 9(3A) omitted by 2017 c. 16 Sch. 5 para. 14(2)
- art. 9(8) inserted by S.I. 2007/3101 reg. 270(d)
- art. 9(8) omitted by S.I. 2019/593 Sch. 8 para. 6(c)
- art. 9(8) words inserted by 2012 c. 7 s. 215(5)(b)
- art. 9(8) words omitted by 2017 c. 16 Sch. 5 para. 14(3)
- art. 9A inserted (temp.) by 2020 c. 7 Sch. 1 para. 2(2)
- art. 10(2)(aa) inserted by S.I. 2014/1887 Sch. 1 para. 13(d)
- art. 10(4)(aa) inserted by S.I. 2014/1887 Sch. 1 para. 13(e)
- art. 10(6) inserted by S.I. 2007/3101 reg. 271(b)
- art. 10(6) omitted by S.I. 2019/593 Sch. 8 para. 7(b)
- art. 10(6) words inserted by 2012 c. 7 s. 215(6)
- art. 10(6) words omitted by 2017 c. 16 Sch. 5 para. 15(2)
- art. 10(7) inserted by S.I. 2014/1887 Sch. 1 para. 13(f)
- art. 10(7) omitted by 2017 c. 16 Sch. 5 para. 15(3)
- art. 11A inserted by S.I. 2014/1887 Sch. 1 para. 14
- art. 11A(11) omitted by 2017 c. 16 Sch. 5 para. 16
- art. 11A(12) omitted by S.I. 2019/593 Sch. 8 para. 8
- art. 12(1)(c)(III) coming into force by S.I. 2002/254 art. 1(3)
- art. 12(1)(d) and word inserted by 2012 c. 7 s. 215(7)(b)
- art. 12(1)(d) and word omitted by 2017 c. 16 Sch. 5 para. 17(2)(b)
- art. 12(1)(ba) inserted by S.I. 2016/1030 reg. 147(2)
- art. 12(1)(ba) omitted by S.I. 2019/593 Sch. 8 para. 9(a)(ii)
- art. 12(1A) inserted by S.I. 2007/3101 reg. 272(b)
- art. 12(1A) omitted by S.I. 2019/593 Sch. 8 para. 9(b)
- art. 12(2)(c) and word inserted by 2012 c. 7 s. 215(8)(b)
- art. 12(2)(c) and word omitted by 2017 c. 16 Sch. 5 para. 17(3)(b)
- art. 13(1)(c) substituted by S.I. 2009/1182 Sch. 2 para. 3(a)
- art. 13(1)(d) words added by S.I. 2009/1182 Sch. 2 para. 3(b)
- art. 13(1B) inserted by S.I. 2012/1479 art. 2(b)
- art. 13(1B) omitted by 2017 c. 16 Sch. 5 para. 18(3)
- art. 13A inserted by S.I. 2007/3101 reg. 273
- art. 13A omitted by S.I. 2019/593 Sch. 8 para. 10
- art. 13A title substituted by 2012 c. 7 s. 215(5)(a)
- art. 13A heading words substituted by 2017 c. 16 Sch. 5 para. 19
- art. 13A(2) substituted by S.I. 2016/1030 reg. 148(2)
- art. 13A(5) word substituted by S.I. 2016/1030 reg. 148(3)(a)
- art. 13A(5) word substituted by S.I. 2016/1030 reg. 148(3)(b)
- art. 13B inserted by 2012 c. 7 s. 215(9)
- art. 13B omitted by 2017 c. 16 Sch. 5 para. 20
- art. 14(ba) inserted by 2012 c. 7 s. 218(4)
- art. 14(ba) omitted by S.I. 2022/1216 reg. 3(b)
- art. 15A15B inserted by 2012 c. 7 s. 218(5)
- art. 15A omitted by S.I. 2018/893 reg. 41(4) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 15B omitted by S.I. 2018/893 reg. 41(5) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 17(3A) inserted by 2012 c. 7 s. 218(7)

- art. 17(3A) omitted by [S.I. 2018/893 reg. 41\(7\)](#) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 18(1A) inserted by [2012 c. 7 s. 218\(8\)](#)
- art. 18(1A) omitted by [S.I. 2018/893 reg. 41\(8\)\(a\)](#) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 19(2A)-(2D) inserted by [S.I. 2007/3101 reg. 274](#)
- art. 19(2A)-(2D) omitted by [S.I. 2019/593 Sch. 8 para. 11](#)
- art. 19(2A)(b) words inserted by [2012 c. 7 s. 215\(10\)](#)
- art. 19(2A)(b) words omitted by [2017 c. 16 Sch. 5 para. 21](#)
- art. 22(1)(a)(vi)(vii) inserted by [S.I. 2009/1182 Sch. 2 para. 5](#) (This effect comes into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- art. 26(6A) inserted by [2015 c. 28 Sch. para. 6\(3\)](#)
- art. 37(1)(aa) inserted by [S.I. 2007/3101 reg. 275](#)
- art. 37(1)(aa) omitted by [S.I. 2019/593 Sch. 8 para. 12](#)
- art. 37(1)(aa) words inserted by [2012 c. 7 s. 215\(5\)\(b\)](#)
- art. 37(1)(aa) words omitted by [2017 c. 16 Sch. 5 para. 23\(2\)](#)
- art. 37(1)(ab) inserted by [S.I. 2014/1887 Sch. 1 para. 16\(a\)](#)
- art. 37(1A)(1B) inserted by [S.I. 2014/1887 Sch. 1 para. 16\(b\)](#)
- art. 37(1B) omitted by [2017 c. 16 Sch. 5 para. 23\(3\)](#)
- art. 37(2A) inserted by [S.I. 2014/1887 Sch. 1 para. 16\(c\)](#)
- art. 37(5A) inserted by [S.I. 2009/1182 Sch. 2 para. 9\(b\)](#)
- art. 37(5A)(a) words inserted by [2012 c. 7 s. 216\(2\)](#)
- art. 37(5A)(a) words omitted by [2017 c. 16 Sch. 5 para. 23\(4\)](#)
- art. 37(8A) inserted by [2012 c. 7 s. 216\(4\)](#)
- art. 37(8A) omitted by [2017 c. 16 Sch. 5 para. 23\(6\)](#)
- art. 38(1A) inserted by [S.I. 2007/3101 reg. 276\(b\)](#)
- art. 38(1A) omitted by [S.I. 2019/593 Sch. 8 para. 13\(b\)](#)
- art. 38(1A)(c)-(e) inserted by [S.I. 2016/1030 reg. 149\(2\)](#)
- art. 38(1B) inserted (temp.) by [2020 c. 7 Sch. 1 para. 2\(4\)](#)
- art. 38(1ZA) inserted by [2012 c. 7 s. 216\(5\)](#)
- art. 38(1ZA) omitted by [2017 c. 16 Sch. 5 para. 24\(2\)](#)
- art. 38(5) inserted by [2012 c. 7 s. 216\(7\)](#)
- art. 38(5) omitted by [2017 c. 16 Sch. 5 para. 24\(4\)](#)
- art. 39(1A) inserted by [2012 c. 7 s. 215\(12\)](#)
- art. 39(1A) omitted by [2017 c. 16 Sch. 5 para. 25](#)
- art. 40(3) coming into force by [S.I. 2002/254 art. 1\(3\)](#) (See transitional provisions in S.I. 2003/1700)
- art. 40(3) coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- art. 42(2A) inserted by [S.I. 2009/1182 Sch. 2 para. 12\(a\)](#)
- art. 42(3)(3A) substituted for art. 42(3) by [S.I. 2009/1182 Sch. 2 para. 12\(b\)](#)
- art. 44A inserted by [2012 c. 7 s. 219\(1\)](#)
- art. 45(3A) inserted by [2012 c. 7 s. 218\(11\)](#)
- art. 49 inserted by [S.I. 2016/1030 reg. 150](#)
- art. 49 omitted by [S.I. 2019/593 Sch. 8 para. 14](#)