

Arrangement of Rules

PART 2

Investigating Committee

Notice provisions

3.—(1) The Investigating Committee shall, in accordance with article 26(2)(a) of the Order, notify the registrant of any allegation referred to it, by serving a notice of referral upon her.

(2) The notice of referral shall—

- (a) particularise the allegation;
- (b) state that any written representations must be submitted by the registrant to the Investigating Committee no later than 28 days after service of the notice;
- (c) inform the registrant that any representations, or extracts of any representations received from her may be shown to the person making the allegation, for comment; and
- (d) inform the registrant that the Investigating Committee may seek such further information as it considers necessary for the purposes of carrying out its functions in investigating the allegation from the registrant's employer (if any), or any other source (other than the registrant).

Procedure of the Investigating Committee where the allegation relates to impairment of fitness to practise

4.—(1) The Investigating Committee shall meet in private to consider an allegation of a kind referred to in article 22(1)(a) of the Order.

(2) Before deciding whether or not there is a case to answer in respect of such an allegation, the Investigating Committee—

- (a) shall send any information or documents obtained pursuant to article 26(2)(c) of the Order to the registrant for comment, and shall consider any comments subsequently received from her;
- (b) may, in the case of an allegation of lack of competence, invite the registrant to submit to an assessment; and
- (c) may, in the case of an allegation that the registrant's fitness to practise is impaired by reason of her physical or mental health, invite her to submit to medical examination by experts appointed by the Council.

(3) The Investigating Committee may adjourn its consideration of such an allegation until such time as any further information has been obtained, or where the registrant has undertaken an assessment or medical examination, a report on her has been prepared.

Procedure of the Investigating Committee where the allegation relates to a fraudulent or incorrect entry in the register

5.—(1) The Investigating Committee shall meet in private for the initial consideration of an allegation of a kind referred to in article 22(1)(b) of the Order.

(2) Before deciding whether or not there is a case to answer in respect of such an allegation, the Investigating Committee shall send any information or documents obtained pursuant to article 26(2)(c) of the Order to the registrant for comment, and shall consider any comments subsequently received from her.

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

(4) The Investigating Committee may adjourn its consideration of such an allegation at any time.

(5) Where the Investigating Committee considers that there is a case to answer, it shall notify the registrant and require her to inform the Investigating Committee, no later than 28 days after service of the notification, if she wishes the allegation to be considered at a hearing.

(6) Where—

(a) the registrant asks for a hearing within the period specified in paragraph (5); or

(b) the Investigating Committee considers that a hearing is desirable,

the Investigating Committee shall refer the allegation to a differently constituted Investigating Committee for a hearing.

(7) The Council shall give notice of the referral to the Investigating Committee to the following—

(a) where known, the employer of the registrant or any other person with whom she has an arrangement to provide professional services;

(b) where known, any other body by which the registrant is authorised to practise a health or social care profession;

(c) the Secretary of State, the Scottish Ministers, the National Assembly for Wales and the Department of Health, Social Services and Public Safety in Northern Ireland; and

(d) where the registrant is a practising midwife, her local supervising authority.

(8) Where a hearing is to be held pursuant to paragraph (6), the Investigating Committee shall send a notice of hearing to the registrant no later than 28 days before the date fixed for the hearing.

(9) The notice of hearing shall—

(a) inform the registrant of the date, time and venue of the hearing;

(b) contain a charge particularising the allegation, and the alleged facts upon which the allegation is based;

(c) inform the registrant of her right to attend, and to be represented at, the hearing in accordance with rule 20;

(d) inform the registrant of the Committee's power to proceed with the hearing in her absence;

(e) inform the registrant of her right to adduce evidence in accordance with rule 31;

(f) inform the registrant of her right to call witnesses, and to cross examine any witnesses called by the Council or by the Committee;

(g) require the registrant to inform the Council, within 14 days receipt of the notice, whether she intends to—

(i) attend the hearing,

(ii) be represented at the hearing;

(h) be accompanied by a copy of these Rules where they have not previously been sent to the registrant;

(i) inform the registrant of the Committee's power to impose an interim order under article 26(11) of the Order; and

(j) inform the registrant of the action the Committee may take under article 26(2)(d)(ii), (7) and (8) of the Order.

(10) Where a hearing is to be held pursuant to paragraph (6), the differently constituted Investigating Committee—

(a) may hold a preliminary meeting in accordance with rule 18; and

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- (b) shall determine the matter in accordance with the procedure set out in Part 5 of these Rules, and shall dispose of the matter in accordance with article 26(2)(d)(ii), (7), (8) and (11) of the Order.
- (11) Where the registrant has not requested a hearing, and the Investigating Committee considers that no hearing is necessary, it shall—
- (a) invite any person who, in its opinion, has an interest in the proceedings to submit written representations within such time as the Committee may direct; and
 - (b) meet in private and, notwithstanding the absence of any representations invited in accordance with sub-paragraph (a), dispose of the matter in accordance with article 26(2)(d)(ii), (7), (8) and (11) of the Order.

Notice of decision

6.—(1) The notice of the Investigating Committee’s decision to be sent under article 26(5) of the Order shall be sent without delay.

(2) Where the Investigating Committee has decided that there is no case to answer, the notice of decision may inform the registrant that the allegation may be taken into account in the consideration of any further allegation about her, received by the Council within three years from the date of service of the notice.

Reconsideration of allegation after a finding of no case to answer

7.—(1) This rule applies where—

- (a) the Investigating Committee has considered an allegation that the registrant’s fitness to practise is impaired and decided that there is no case to answer in respect of that allegation; and
- (b) at any time within three years from service of the notice of decision, the Council receives a fresh allegation about the registrant.

(2) Where this rule applies, the Investigating Committee may—

- (a) when considering whether or not there is a case to answer in respect of a fresh allegation, take account of the original allegation; and
- (b) may refer both the original allegation and the new allegation to the Conduct and Competence Committee or Health Committee.