



Dentists Act 1984

1984 CHAPTER 24

[^{F1}PART 3A

PROFESSIONS COMPLEMENTARY TO DENTISTRY]

[^{F1}Professional conduct and fitness to practise

[^{F1}36O. The Investigating Committee

- (1) Where the registrar refers an allegation under section 36N to the Investigating Committee they shall investigate the allegation and determine whether the allegation ought to be considered by a Practice Committee.
- (2) If the Investigating Committee determine that the allegation ought not to be considered by a Practice Committee, the Investigating Committee may—
 - (a) issue a warning or advice to the person who is the subject of the allegation regarding his future conduct, performance and practice; and
 - (b) issue advice to any other person involved in the investigation on any issue arising in the course of the investigation.
- (3) If the Investigating Committee issue a warning under subsection (2)(a), they may, if they consider it appropriate to do so, direct the registrar to enter details of that warning in any entry in the dental care professionals register relating to the person who is the subject of the allegation.

[In deciding whether to issue a warning or advice under subsection (2) or give a ^{F2}(3A) direction under subsection (3), the Investigating Committee (or any panel by which the function is exercisable as mentioned in section 2(6A)) must have regard to the over-arching objective.]

- (4) Unless subsection (5) applies, if the Investigating Committee determine that the allegation ought to be considered by a Practice Committee, the Investigating Committee—

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- [may agree with the person who is the subject of the allegation that the person will comply with such undertakings as the Investigating Committee consider appropriate;]
- ^{F3}(za) (a) [^{F4}if they do not agree undertakings under paragraph (za),] shall refer the allegation—
 - (i) to the Professional Performance Committee, in the case of an allegation based on the ground mentioned in section 36N(2)(b) (deficient professional performance),
 - (ii) to the Health Committee, in the case of an allegation based on the ground mentioned in section 36N(2)(c) (adverse physical or mental health), or
 - (iii) to the Professional Conduct Committee, in any other case; ^{F5}...
- ^{F5}(b)

[Unless subsection (5) applies, the Investigating Committee may, if they consider ^{F6}(4A) it appropriate, refer the allegation to the Interim Orders Committee (subject to subsection (6B)).]

- (5) This subsection applies in a case where two or more allegations under section 36N relating to the same person have been referred to the Investigating Committee and those allegations are—
 - (a) an allegation based on the ground mentioned in section 36N(2)(b) and an allegation or allegations based on any other grounds mentioned in section 36N(2); or
 - (b) an allegation based on the ground mentioned in section 36N(2)(c) and an allegation or allegations based on any other grounds mentioned in section 36N(2).

(6) Where subsection (5) applies, and the Investigating Committee determine that two or more of those allegations ought to be considered by a Practice Committee, the Investigating Committee—

- [may agree with the person who is the subject of those allegations that the person will comply with such undertakings as the Investigating Committee consider appropriate;]
- ^{F7}(za) (a) [^{F8}if they do not agree undertakings under paragraph (za),] shall refer those allegations to whichever one of the Practice Committees they consider most appropriate; ^{F9}...
- ^{F9}(b)

[Where subsection (5) applies, the Investigating Committee may, if they consider ^{F10}(6A) it appropriate, refer those allegations to the Interim Orders Committee (subject to subsection (6B)).]

(6B) Subsections (4A) and (6A) do not apply if the Investigating Committee have determined that the allegation or allegations ought to be considered by a Practice Committee and—

- (a) the Investigating Committee agree undertakings under subsection (4)(za) or (6)(za), or
- (b) (if they do not agree undertakings under that provision) the hearing before a Practice Committee has commenced or, where there is not to be a hearing before a Practice Committee, a Practice Committee have begun to consider written statements or representations.]

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[If the Investigating Committee agree undertakings under subsection (4)(za) or (6)(za),
F11(6C) they may, if they consider it appropriate to do so, direct the registrar to enter details of the undertakings in the entry in the register relating to the person who is the subject of the allegation or allegations.]

(7) The registrar shall serve notification of any determination made by the Investigating Committee under subsection (1) on the person who is the subject of the allegation and on the person (if any) making the allegation.

(8) The Investigating Committee may review and if they consider it appropriate revise a determination made by them that an allegation or allegations ought to be considered by a particular Practice Committee—

(a) on a reference back to them from that Practice Committee under section 36P(5); or

(b) on an application made by the Council, the registrar, the person who is the subject of the allegation or allegations or any person making the allegation or allegations, but only if such review is carried out—

(i) where there is to be a hearing before that Practice Committee, before the commencement of that hearing, or

(ii) where there is not to be a hearing before that Practice Committee, before that Practice Committee have begun to consider written statements or representations.

[On a review under subsection (8) the Investigating Committee may refer the allegation
F12(8A) or allegations to the Interim Orders Committee.]

(9) Subsection (2) applies to a determination by the Investigating Committee, following a review under subsection (8), that an allegation or allegations ought not to be considered by a Practice Committee, as it applies to a determination under subsection (1) that an allegation ought not to be considered by a Practice Committee.

(10) If the Investigating Committee determine, under subsection (1) or following a review under subsection (8), that an allegation or allegations against a person ought not to be considered by a Practice Committee, they shall, at the same time, revoke with immediate effect any interim order which has been made under section 36V in respect of that person in consequence of that allegation or those allegations.

[The Investigating Committee may review a determination made by them to issue a
F13(11) warning under subsection (2)(a) on an application made—

(a) by the person to whom the warning was issued or the registrar;

(b) before the end of the period of two years beginning with the date on which the determination was made.

(12) On a review under subsection (11) the Investigating Committee may, if they consider it appropriate—

(a) revoke the warning, and

(b) direct the registrar to remove details of the warning from the entry in the register relating to the person to whom the warning was issued.]

[Rules may make provision in connection with undertakings under subsections (4)(za)
F14(13) and (6)(za) (including provision as to the actions which may be taken in consequence of undertakings being breached).]]

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Textual Amendments

- F1** Ss. 36K-36V and cross-heading inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), [art. 31](#) (with [Sch. 7](#)) (with transitional provisions in S.I. 2006/1671)
- F2** S. 36O(3A) inserted (26.9.2016) by [Health and Social Care \(Safety and Quality\) Act 2015 \(c. 28\)](#), s. 6(4), [Sch. para. 1\(5\)](#); S.I. 2016/906, reg. 2(b)
- F3** S. 36O(4)(za) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [6\(2\)](#)
- F4** Words in s. 36O(4)(a) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [6\(3\)](#)
- F5** S. 36O(4)(b) and preceding word omitted (13.4.2016) by virtue of [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [17\(2\)](#)
- F6** S. 36O(4A) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [17\(3\)](#)
- F7** S. 36O(6)(za) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [6\(4\)](#)
- F8** Words in s. 36O(6)(a) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [6\(5\)](#)
- F9** S. 36O(6)(b) and preceding word omitted (13.4.2016) by virtue of [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [17\(4\)](#)
- F10** S. 36O(6A)(6B) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [17\(5\)](#)
- F11** S. 36O(6C) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [6\(6\)](#)
- F12** S. 36O(8A) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [17\(6\)](#)
- F13** S. 36O(11)(12) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [8](#)
- F14** S. 36O(13) inserted (13.4.2016) by [The General Dental Council \(Fitness to Practise etc.\) Order 2016 \(S.I. 2016/496\)](#), arts. 1, [6\(7\)](#)

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Changes and effects yet to be applied to :

- s. 36O(4)(a)(i) words inserted by [S.I. 2015/806 art. 25\(2\)](#)

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- s. 27(2)(h)(i) inserted by [S.I. 2009/1182 Sch. 1 para. 7](#) (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)
- s. 27(2)(ba) inserted by [S.I. 2015/806 art. 17](#)
- s. 27A(5)(aa) inserted by [S.I. 2015/806 art. 18\(3\)](#)
- s. 27BA inserted by [S.I. 2015/806 art. 19](#)
- s. 36N(2)(h)(i) inserted by [S.I. 2009/1182 Sch. 1 para. 8](#) (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)
- s. 36N(2)(ba) inserted by [S.I. 2015/806 art. 24](#)
- s. 36O(5)(aa) inserted by [S.I. 2015/806 art. 25\(3\)](#)
- s. 36PA inserted by [S.I. 2015/806 art. 26](#)