
STATUTORY INSTRUMENTS

2002 No. 253

The Nursing and Midwifery Order 2001

PART V

FITNESS TO PRACTISE

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)**

Council's functions in respect of fitness to practise, ethics and other matters

21.—(1) The Council shall—

- (a) establish and keep under review the standards of conduct, performance and ethics expected of registrants and prospective registrants and give them such guidance on these matters as it sees fit; and
- (b) establish and keep under review effective arrangements to protect the public from persons whose fitness to practise is impaired.

(2) The Council may also from time to time give guidance to registrants, employers and such other persons as it thinks appropriate in respect of standards for the education and training, supervision and performance of persons who provide services in connection with those provided by registrants.

(3) Before establishing any ^{F1}... arrangements mentioned in paragraph (1), the Council shall consult ^{F1}... the persons mentioned in article 3(14).

Textual Amendments

- F1** Words in [art. 21\(3\)](#) omitted (14.5.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(c\)](#)

Commencement Information

- I1** [Art. 21\(3\)](#) in force at 7.7.2003 for specified purposes as notified in the London Gazette (Issue 56984, published 27.6.2003), see [art. 1\(2\)\(3\)](#)
- I2** [Art. 21](#) 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 outstanding changes not yet made by the legislation.gov.uk editorial team to The Nursing and Midwifery 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

Allegations

22.—(1) This article applies where any allegation is made against a registrant to the effect that—

- (a) his fitness to practise is impaired by reason of—
 - (i) misconduct,
 - (ii) lack of competence,
 - (iii) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence,
 - (iv) his physical or mental health, or
 - [^{F2}(iva) not having the necessary knowledge of English,]
 - (v) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect;

(b) an entry in the register relating to him has been fraudulently procured or incorrectly made.

(2) For the purposes of this article references to a conviction include a conviction by a Court Martial.

(3) This article is not prevented from applying because the allegation is based on a matter alleged to have occurred outside the United Kingdom or at a time when the person against whom the allegation is made was not registered.

(4) Rules may provide that where [^{F3}the Fitness to Practise Committee] finds that a person has failed to comply with the standards mentioned in article 21(1), such failure shall not be taken of itself to establish that his fitness to practise is impaired, but may be taken into account in any proceedings under this Order.

(5) When an allegation is made to the Council or any of its committees, as soon as reasonably practicable after receipt of the allegation in the form required by the Council, the Council shall refer it—

(a) where it is an allegation of the kind mentioned in paragraph (1)(b), to the Investigating Committee; and

[^{F4}(b) in any other case, to a Practice Committee.]

(6) If an allegation is not made under paragraph (1) but it appears to the Council that there should be an investigation into the fitness to practise of a registrant or into his entry in the register it may refer the matter in accordance with paragraph (5) and this Order shall apply as if it were an allegation made under paragraph (1).

^{F5}(7)

(8) While the registration of a registrant is suspended by virtue of a suspension order or an interim suspension order he shall be treated as not being registered notwithstanding that his name still appears in the register but this does not prevent action being taken in respect of such a person as appropriate under articles 22 to 32 of this Order.

(9) The Council shall publish as soon as reasonably practicable particulars of any orders and decisions made by a Practice Committee under article [^{F6}26(5A), (7) or (12)], 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 [^{F7}and of any warning issued under article 26(7A)(a)] and of its reasons for them and of any decision given on appeal.

(10) The Council may disclose to any person any information relating to a person’s fitness to practise which it considers it to be in the public interest to disclose.

(11) In this Part “the person concerned” means the person against whom an allegation has been made.

[^{F8}(12) The Council may withhold from publication under paragraph (9), information concerning the physical or mental health of a person which the Council considers to be confidential.]

Textual Amendments

- F2** Art. 22(1)(a)(iva) inserted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **37**; S.I. 2015/1451, art. 4
- F3** Words in art. 22(4) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(a)** (with art. 3)
- F4** Art. 22(5)(b) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 16**
- F5** Art. 22(7) omitted (31.3.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 2(b)** (with art. 3)
- F6** Words in art. 22(9) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(c)(i)** (with art. 3)
- F7** Words in art. 22(9) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(c)(ii)** (with art. 3)
- F8** Art. 22(12) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 2(d)** (with art. 3)

Commencement Information

- I3** Art. 22(4) 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)**
- I4** Art. 22 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)**

Screeners

^{F9}**23.**

Textual Amendments

- F9** Art. 23 omitted (28.1.2019) by virtue of The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 17**

Screeners: supplementary provisions

^{F10}**24.**

Textual Amendments

- F10** Art. 24 omitted (28.1.2019) by virtue of The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 17**

Council’s power to require disclosure of information

25.—(1) For the purpose of assisting [^{F11}the Council [^{F12}, any of its Practice Committees, the Registrar or any other officer of the Council] in] carrying out functions in respect of fitness to

practise, a person authorised by [^{F11}the Council] may require any person (other than the person concerned) who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(2) As soon as is reasonably practicable after a decision has been made under article 22(5) or (6) to refer an allegation or other matter to a Practice Committee, the Council shall require, from the person concerned, details of—

(a) any person—

(i) by whom he is employed to provide services in, or in relation to, nursing or midwifery [^{F13}, or as a nursing associate]; or

(ii) with whom he has an arrangement to provide such services; and

(b) any body by which he is authorised to practise, in the United Kingdom or elsewhere, a health or social care profession which is regulated under any enactment.

(3) Nothing in this article shall require or permit any disclosure of information which is prohibited by or under any other enactment [^{F14}or the [^{F15}UK GDPR]].

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in paragraph (1) may, in exercising his functions under that paragraph, require that the information be put into a form which is not capable of identifying that individual.

(5) Paragraph (1) shall not apply in relation to the supplying of information or the production of any document which a person could not be compelled to supply or produce in civil proceedings in any court to which an appeal would lie from a decision of [^{F16}a Practice Committee with regard to the person concerned].

(6) For the purposes of [^{F17}paragraph (3)—]

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

F18 ...

Textual Amendments

- F11** Words in art. 25(1) substituted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(d\)\(i\)](#)
- F12** Words in art. 25(1) substituted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, 4
- F13** Words in art. 25(2)(a)(i) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 18](#)
- F14** Words in art. 25(3) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 281\(2\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F15** Words in art. 25(3) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), [Sch. 3 para. 40\(2\)](#) (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in art. 25(5) substituted (14.5.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 1(2)(e), [Sch. 4 para. 38\(d\)\(ii\)](#)
- F17** Words in art. 25(6) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 281\(3\)\(a\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F18 Words in art. 25(6) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 3 para. 40(3)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C3 Art. 25(1) modified (temp.) (25.3.2020) by **Coronavirus Act 2020 (c. 7)**, s. 87(1), **Sch. 1 para. 1(3)** (with ss. 89, 90) (subject to expiry in accordance with s. 89(1)(2)(b) of the modifying Act)

Commencement Information

I5 Art. 25 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

The Investigating Committee

26.—(1) The Investigating Committee shall investigate any allegation which is referred to it in accordance with article 22^{F19}....

(2) Where an allegation is referred to the Investigating Committee^{F20}...—

[^{F21}(a) the Council shall without delay notify the person concerned of the allegation and invite him to submit written representations to the [^{F22}Investigating] Committee within a prescribed period;]

(b) [^{F23}the [^{F24}Investigating] Committee shall] 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 [^{F24}Investigating] Committee in respect of those representations;

(c) [^{F25}the [^{F26}Investigating] Committee shall] take such other steps as are reasonably practicable to obtain as much information as possible about the case;

(d) [^{F27}the [^{F28}Investigating] Committee shall] 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.

[^{F29}(5A) Where the Investigating Committee has concluded under paragraph (2)(d)(i) that there is a case to answer, it may, at any time until the allegation is considered by the Fitness to Practise Committee, agree with the person concerned that that person is to comply with such undertakings as the Investigating Committee considers appropriate.

(5B) Rules may make provision in connection with undertakings agreed under paragraph (5A) (including provision as to the actions which may be taken as a consequence of an undertaking being breached).]

[^{F30}(6) Where the Investigating Committee concludes under paragraph (2)(d)(i) that there is a case to answer but it does not agree undertakings under paragraph (5A), it must—

- (a) undertake mediation; or
- (b) [^{F31}refer the case to the Fitness to Practise Committee.]

[^{F32}(6A) In deciding whether to act under [^{F33}paragraphs (5A) or (6)(a)] the Investigating Committee (or any panel by which a function under that paragraph is exercisable as mentioned in paragraph 17(1A) of Schedule 1) must have regard to the over-arching objective of the Council under article 3(4) (read with article 3(4A)).]

(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.

[^{F34}(7A) If the Investigating Committee concludes [^{F34}under paragraph (2)(d)(i) that there is no case to answer, it may—

- (a) issue a warning to the person concerned; or
- (b) give advice to that person in connection with any matter arising during the investigation of the allegation.

(7B) If the Investigating Committee issues a warning or gives advice under paragraph (7A), it must include in the notification referred to in paragraph (5)—

- (a) details of that warning or advice;
- (b) its reasons for issuing the warning or giving the advice;
- (c) the period for which any warning will be published by the Council under article 22(9).]

(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 [^{F35}or after] referring a case to the [^{F36}Fitness to Practise Committee] under paragraph (6) [^{F37}: but the Investigating Committee may only make an interim order after it has referred a case if the [^{F36}Fitness to Practise Committee] has not begun its consideration of the case].

(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.

Textual Amendments

- F19** Words in art. 26(1) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 19\(a\)](#)
- F20** Words in art. 26(2) omitted (11.12.2014) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(i\)](#)
- F21** Art. 26(2)(a) substituted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(ii\)](#)
- F22** Word in art. 26(2)(a) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)
- F23** Words in art. 26(2)(b) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(iii\)](#)
- F24** Word in art. 26(2)(b) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)
- F25** Words in art. 26(2)(c) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(iii\)](#)
- F26** Word in art. 26(2)(c) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)
- F27** Words in art. 26(2)(d) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(a\)\(iii\)](#)
- F28** Word in art. 26(2)(d) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(a\)](#) (with art. 3)
- F29** Art. 26(5A)(5B) inserted (31.3.2017 for specified purposes, 28.7.2017 in so far as not already in force) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(3), [Sch. 1 para. 4\(b\)](#) (with art. 3)
- F30** Art. 26(6) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(c\)](#) (with art. 3)
- F31** Art. 26(6)(b) substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 19\(b\)](#)
- F32** Art. 26(6A) inserted (26.9.2016) by [Health and Social Care \(Safety and Quality\) Act 2015 \(c. 28\)](#), s. 6(4), [Sch. para. 5\(3\)](#); S.I. 2016/906, reg. 2(b)
- F33** Words in art. 26(6A) substituted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), art. 1(3), [Sch. 1 para. 19\(c\)](#)
- F34** Art. 26(7A)(7B) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(e\)](#) (with art. 3)
- F35** Words in art. 26(11) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(b\)\(i\)](#)
- F36** Words in art. 26(11) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 4\(f\)](#) (with art. 3)
- F37** Words in art. 26(11) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), arts. 1, [5\(b\)\(ii\)](#)

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Commencement Information

- I6** [Art. 26\(2\)\(a\)\(3\)\(4\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I7** [Art. 26](#) 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\(2\)\(3\)](#)

[^{F38}Exercise of Investigating Committee functions by the Registrar or officers of the Council

26A.—(1) The Council may by rules make provision for—

- (a) the Registrar; or
- (b) any other officer of the Council,

to exercise the functions of the Investigating Committee under [^{F39}paragraphs (1), (2)(b) to (d), (5), (5A), (6), (7A) and (8)] of article 26, whether generally or in relation to such classes of case as may be specified in the rules.

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Investigating Committee under paragraph (6)(b)(ii) ^{F40}... of article 26, the referral of a case to the [^{F41}Fitness to Practise Committee] shall be deemed to have been made by the Investigating Committee.

Textual Amendments

- F38** [Arts. 26A-26C](#) inserted (11.12.2014) by [The Nursing and Midwifery \(Amendment\) Order 2014 \(S.I. 2014/3272\)](#), [arts. 1, 6](#)
- F39** Words in [art. 26A\(1\)](#) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), [art. 1\(4\)](#), [Sch. 1 para. 5\(a\)](#) (with [art. 3](#))
- F40** Words in [art. 26A\(2\)](#) omitted (28.7.2017) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), [art. 1\(4\)](#), [Sch. 1 para. 5\(b\)\(i\)](#) (with [art. 3](#))
- F41** Words in [art. 26A\(2\)](#) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), [art. 1\(4\)](#), [Sch. 1 para. 5\(b\)\(ii\)](#) (with [art. 3](#))

Review of decisions by the Council

[^{F42}**26B.**—(1) The Council may review a decision—

- (a) that there is no case to answer made by the Investigating Committee under article 26(2)(d)(i);
- (b) that there is no case to answer made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (c) to agree undertakings with the person concerned made by the Investigating Committee under article 26(5A);
- (d) to agree undertakings with the person concerned made by the Registrar or any other officer of the Council pursuant to rules made under article 26A;
- (e) made pursuant to rules made under article 26(5B) that undertakings no longer apply and that the allegation must not be considered further.

(2) The Council may make rules in connection with carrying out reviews under paragraph (1).]

Textual Amendments

- F38** Arts. 26A-26C inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, 6
- F42** Art. 26B substituted (31.3.2017 for specified purposes, 28.7.2017 in so far as not already in force) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(3), **Sch. 1 para. 6** (with art. 3)

Exercise of Council functions by the Registrar or officers of the Council

26C.—(1) The Council may make rules providing for—

- (a) the Registrar; or
- (b) any other officer of the Council,

to exercise the functions of the Council under articles 22, 26(2)(a) and [^{F43}26B(1)] whether generally or in relation to such classes of case as may be specified in the rules.

(2) Where, by virtue of paragraph (1), rules provide for the Registrar or any other officer of the Council to exercise the functions of the Council under article 22(5), the referral of a case to the [^{F44}Fitness to Practise Committee] shall be deemed to have been made by the Council.]

Textual Amendments

- F38** Arts. 26A-26C inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, 6
- F43** Word in art. 26C(1) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 7(a)** (with art. 3)
- F44** Words in art. 26C(2) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 7(b)** (with art. 3)

[^{F45}The Fitness to Practise Committee

26D. The Fitness to Practise Committee must consider—

- (a) an allegation referred to it by the Council [^{F46}... or the Investigating Committee; and
- (b) an application for restoration referred to it by the Registrar.]

Textual Amendments

- F45** Art. 26D inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 8** (with art. 3)
- F46** Word in art. 26D(a) omitted (28.1.2019) by virtue of The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 20**

The Conduct and Competence Committee

^{F47}27.

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Textual Amendments

F47 Art. 27 omitted (28.7.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 9** (with art. 3)

The Health Committee

^{F48}**28.**

Textual Amendments

F48 Art. 28 omitted (28.7.2017) by virtue of The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 9** (with art. 3)

[^{F49}**Assessment of necessary knowledge of English**

28A.—(1) The Council may make rules authorising the giving of directions by—

- (a) any of the Practice Committees;
- (b) any other persons specified in the rules,

requiring the person concerned to undertake an examination or other assessment of that person’s knowledge of English.

(2) An examination or other assessment under paragraph (1) must be made in accordance with rules.

(3) The rules must, in particular, provide for—

- (a) the procedures to be followed by such persons when directing the person concerned to undertake such an examination or other assessment;
- (b) the person concerned who is required to undertake such an examination or other assessment to provide information in respect of that examination or assessment to such persons as may be prescribed under the rules;
- (c) the information provided by virtue of sub-paragraph (b) to be disclosed to such persons as may be prescribed under the rules.

(4) Rules under this article may make provision for the [^{F50}Fitness to Practise Committee] to draw such inferences as seem appropriate to it if a person fails—

- (a) to undergo an examination or other assessment by virtue of rules under paragraph (1); or
- (b) to provide the information required by virtue of rules made under paragraph (3)(b).]

Textual Amendments

F49 Art. 28A inserted (19.10.2015) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **38**; S.I. 2015/1451, art. 2(c)

F50 Words in art. 28A(4) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 10** (with art. 3)

[^{F51}Orders of the Fitness to Practise Committee]

29.—(1) If, having considered an allegation, [^{F52}the Fitness to Practise Committee], as the case may be, concludes that it is not well founded—

- (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.

(2) For the purposes of paragraph (1) the publication of the decision mentioned in article 32(2)(k) and the reasons for it may constitute such a declaration.

(3) If, having considered an allegation, [^{F53}the Fitness to Practise Committee], as the case may be, concludes that it is well founded, it shall proceed in accordance with the remaining provisions of this article.

[^{F54}(4) The Committee may undertake mediation of the matter, or decide that it is not appropriate to take any further action.]

(5) Where a case does not fall within paragraph (4), the Committee shall—

- (a) make an order directing the Registrar to strike the person concerned off the register (a “striking-off order”);
- (b) make an order directing the Registrar to suspend the registration of the person concerned for a specified period which shall not exceed one year (a “suspension order”);
- (c) make an order imposing conditions with which the person concerned must comply for a specified period which shall not exceed three years (a “conditions of practice order”); or
- (d) caution the person concerned and make an order directing the Registrar to annotate the register accordingly for a specified period which shall be not less than one year and not more than five years (a “caution order”).

(6) A striking-off order may not be made in respect of an allegation of the kind mentioned in article 22(1)(a) [^{F55}(ii), (iv) or (iva)] unless the person concerned has been continuously suspended, or subject to a conditions of practice order, for a period of no less than two years immediately preceding the date of the decision of the Committee to make such an order.

(7) The Committee may specify in an order made under paragraph (5) a period within which an application to vary, replace or revoke the order may not be made, which—

- (a) in the case of a striking-off order, except where new evidence relevant to the order becomes available, shall be expressed in terms of article 33(2);
- (b) in the case of a suspension order shall not exceed 10 months; and
- (c) in the case of a conditions of practice order shall not exceed two years.

(8) The Committee shall, when it makes, varies, replaces or revokes an order under this article or article 30 or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order;

[^{F56}(8A) If, at the time of making an order under paragraph (5)(b) or (c), the Fitness to Practise Committee is satisfied that, with effect from the date of the expiry of that order, it will not be necessary to—

- (a) extend the period of the order;
- (b) vary the order; or
- (c) make any other order falling within article 29(5),

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the Committee may decide that article 30(1) does not apply to that order.]

(9) The person concerned may appeal to the appropriate court against an order made under paragraph (5) and article 38 shall apply to the appeal.

(10) 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.

(11) No order mentioned in paragraph (9) 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.

Textual Amendments

- F51** Art. 29 heading substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(a)** (with art. 3)
- F52** Words in art. 29(1) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(b)** (with art. 3)
- F53** Words in art. 29(3) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(b)** (with art. 3)
- F54** Art. 29(4) substituted (28.1.2019) by The Nursing and Midwifery (Amendment) Order 2018 (S.I. 2018/838), art. 1(3), **Sch. 1 para. 21**
- F55** Words in art. 29(6) substituted (18.1.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **39**; S.I. 2015/1451, art. 4
- F56** Art. 29(8A) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 11(c)** (with art. 3)

Modifications etc. (not altering text)

- C4** Art. 29 applied (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **9(5)**, 11(3)(b)
- C5** Art. 29(4)(5) applied (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)**
- C6** Art. 29(4)(5) applied (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)**

Commencement Information

- I8** Art. 29 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

[^{F57}Review of orders by the Fitness to Practise Committee]

30.—(1) [^{F58}Except where article 29(8A) applies,] before the expiry of an order made under article 29(5)(b) or (c) [^{F59}, the Fitness to Practise Committee] shall review the order and may, subject to paragraph (5)—

- (a) with effect from the date on which the order would, but for this provision, have expired, extend, or further extend the period for which the order has effect;
- [^{F60}(b) with effect from the expiry of that order, and subject to article 29(6) and (7), make an order falling within article 29(5);]
- (c) with effect from the expiry of a suspension order, make a conditions of practice order with which the practitioner must comply if he resumes the practice of his registered profession after the end of his period of suspension.

[^{F61}(2) On the application of the person concerned or otherwise, at any time an order made by the Fitness to Practise Committee under article 29(5)(b) to (d) is in force, the Fitness to Practise Committee may review the order and may take any of the steps referred to in paragraph (4).]

(3) Paragraphs (1) and (2) apply to an order made on a review under paragraph (1) or (2) as they do to an order made under article 29(5)(b) to (d).

(4) The steps mentioned in paragraph (2) are for the Committee to—

- (a) confirm the order;
- (b) extend, or further extend, the period for which the order has effect;
- (c) reduce the period for which the order has effect, but in the case of a caution order not so that it has effect for less than one year beginning with the date on which the order was made under article 29(5)(d);

[^{F62}(d) subject to article 29(6) and (7), replace the order with one falling within article 29(5): any replacement order falling within article 29(5)(b), (c) or (d) shall have effect for the remainder of the term of the order it replaces;]

- (e) subject to paragraph (6), revoke the order or revoke any condition imposed by the order;
- (f) vary any condition imposed by the order.

(5) The Committee may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.

(6) The Committee may make the revocation of a suspension order subject to the applicant's satisfying such requirements as to additional education or training and experience as the Council has established under article 19(3) and which apply to him.

(7) Where new evidence relevant to a striking-off order becomes available after the making of the order, the [^{F63}Fitness to Practise Committee] may review it and article 33(4) to (8) shall apply as if it were an application for restoration made under that article.

(8) A striking-off order, conditions of practice order, suspension order or caution order which is in force by virtue of a decision made on appeal to the appropriate court may be reviewed in accordance with paragraph (2) or (7), as the case may be, by the [^{F64}Fitness to Practise Committee] and any of the steps mentioned in paragraph (4) may be taken.

(9) Before exercising its powers under paragraph (1), (2), (4), (6), (7) or (8) [^{F65}the Fitness to Practise Committee] shall give the person concerned the opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(10) The person concerned may appeal to the appropriate court against an order or decision made under paragraph (1), (2), (4), (6), (7) or (8).

(11) 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.

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

Textual Amendments

F57 Art. 30 heading substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 12\(a\)](#) (with art. 3)

F58 Words in art. 30(1) inserted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 12\(b\)\(i\)](#) (with art. 3)

F59 Words in art. 30(1) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), [Sch. 1 para. 12\(b\)\(ii\)](#) (with art. 3)

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- F60** Art. 30(1)(b) substituted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **7(a)**
- F61** Art. 30(2) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(c)** (with art. 3)
- F62** Art. 30(4)(d) substituted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **7(b)**
- F63** Words in art. 30(7) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(d)** (with art. 3)
- F64** Words in art. 30(8) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(e)** (with art. 3)
- F65** Words in art. 30(9) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 12(f)** (with art. 3)

Modifications etc. (not altering text)

- C7** Art. 30 applied (1.8.2004) by The Nursing and Midwifery Order 2001 (Transitional Provisions) Order of Council 2004 (S.I. 2004/1762), arts. 1(1), **9(5)**, 10(2), 11(3)(b)

Commencement Information

- I9** Art. 30(9) 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)**
- I10** Art. 30 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)**

Interim Orders by a Practice Committee

31.—(1) This article applies where—

- (a) an allegation against a registered professional has been referred to [^{F66}a Practice Committee] but—
- (i) that Committee has not reached a decision on the matter; or
- (ii) in a case to which article 26(6) applies, where the Investigating Committee refers the matter to [^{F67}the Fitness to Practise Committee];
- (b) the Investigating Committee makes an order under article 26(7), or
- (c) the [^{F68}Fitness to Practise Committee] makes an order under article 29(5)(a) to (c).

(2) ^{F69}... If the [^{F70}Practice] Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, for the registration of that person to be suspended or to be made subject to conditions, it may—

- (a) make an order directing the Registrar to suspend the person’s registration (an “interim suspension order”), or
- (b) make an order imposing conditions with which the person must comply (an “interim conditions of practice order”),

during such period not exceeding eighteen months as may be specified in the order.

(3) In a case coming within paragraph (1)(b) or (c), such an order may be made at the same time as an order made under article 26(7) or 29(5)(a) to (c).

^{F71}(4)

(5) Subject to paragraphs (6), (7), (9) and (12) the order mentioned in paragraph (2) shall cease to have effect—

- [^{F72}(a) in a case falling within paragraph (1)(a)—
- (i) when the Investigating Committee reaches a decision under article 26(2)(d)(i) that there is no case to answer,
 - (ii) when the Investigating Committee agrees undertakings with the person concerned under article 26(5A),
 - (iii) where in respect of an allegation mentioned in article 22(1)(b), the Investigating Committee reaches a decision in respect of the allegation,
 - (iv) when the Fitness to Practise Committee reaches a decision in respect of the allegation in question;]
- (b) in a case falling within paragraph (1)(b) or (c)—
- (i) if there is no appeal against the order mentioned in that paragraph, when the period for appealing expires, or
 - (ii) if there is an appeal against that order, when the appeal is withdrawn or otherwise finally disposed of.

[^{F73}(6) In a case falling within paragraph (1)(a), an order made under paragraph (2) must be reviewed by either the Committee which made the order or [^{F74}where the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), by the Fitness to Practise Committee]—

- (a) within the period of six months beginning on the date on which the order was made, and that Committee must thereafter, for so long as the order continues in force, further review it before the end of the period of [^{F75}six months] beginning on the date of the decision of the immediately preceding review;
- (b) where new evidence relevant to the order has become available after the making of the order.]

(7) Where an interim suspension order or an interim conditions of practice order has been made under this article (including this paragraph) [^{F76}then either] the Practice Committee which made the order [^{F77}or, if the matter has been referred to the Fitness to Practise Committee by the Investigating Committee pursuant to article 26(6)(b)(ii), the Fitness to Practise Committee], ^{F78}... may, subject to paragraph (15)—

- (a) revoke the order or revoke any condition imposed by the order;
- (b) confirm the order;
- (c) 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 person concerned, replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the former;
- (e) if satisfied that the public interest, including the protection of members of the public, or the interests of the person concerned would be adequately served by an interim conditions of practice order, replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the former.

(8) The Council may apply to the court for an order made by a Practice Committee under paragraph (2) or (7) to be extended, and may apply again for further extensions.

[^{F79}(9) On such an application the court may—

- (a) extend (or further extend) for up to 12 months the period for which the order has effect;

- (b) replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the order as extended;
- (c) replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the order as extended.]

(10) In this article, references to an interim suspension order or interim conditions of practice order include such an order as so extended.

[^{F80}(11) For the purposes of paragraph (6), the first review—

- (a) after the extension of an order by the court pursuant to paragraph (9)(a) or after the replacement of an order by the court pursuant to paragraph (9)(b) or (c), must take place within the period of 6 months beginning with the date on which the court extended that order or replaced the order, as the case may be;
- (b) after the replacement of an interim conditions of practice order or an interim suspension order by a Practice Committee pursuant to paragraph (7)(d) or, as the case may be, paragraph (7)(e), must take place within the period of 6 months beginning with the date on which the replacement order was made.]

[^{F81}(12) Where an order has effect under paragraph (2), (7) or (9), the court may, on an application being made by the person concerned—

- (a) in the case of an interim suspension order—
 - (i) terminate the suspension,
 - (ii) replace the interim suspension order with an interim conditions of practice order;
- (b) in the case of an interim conditions of practice order—
 - (i) revoke or vary any condition imposed by the order,
 - (ii) replace the interim conditions of practice order with an interim suspension order;
- (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

and the decision of the court under any application under this paragraph shall be final.]

(13) In this article “the court” has the same meaning as “the appropriate court” in article 38.

(14) The [^{F82}Practice] Committee shall notify the person concerned giving its reasons where it makes an order under paragraph (2) or any decision under paragraph (7) and shall notify him of his right to apply to the court.

(15) No order under paragraph (2) or (7)(c) to (e), or, in a case where paragraph (5)(b) applies, under paragraph (7)(b), shall be made by [^{F83}a Practice Committee] in respect of any person unless he has been afforded an opportunity of appearing before the Committee and being heard on the question whether such an order should be made in his case.

(16) At any such hearing, the person concerned shall be entitled to be represented whether by a legally qualified person or otherwise.

(17) The [^{F84}Practice] Committee shall when it makes, varies, replaces or revokes an order under this article or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

Textual Amendments

- F66** Words in art. 31(1)(a) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(a)(i)** (with art. 3)
- F67** Words in art. 31(1)(a)(ii) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(a)(ii)** (with art. 3)
- F68** Words in art. 31(1)(c) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(a)(iii)** (with art. 3)
- F69** Words in art. 31(2) omitted (11.12.2014) by virtue of The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(a)**
- F70** Word in art. 31(2) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(b)** (with art. 3)
- F71** Art. 31(4) omitted (11.12.2014) by virtue of The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(b)**
- F72** Art. 31(5)(a) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(c)** (with art. 3)
- F73** Art. 31(6) substituted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(d)**
- F74** Words in art. 31(6) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(d)(i)** (with art. 3)
- F75** Words in art. 31(6)(a) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(d)(ii)** (with art. 3)
- F76** Words in art. 31(7) inserted (11.12.2014) by The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(e)(i)**
- F77** Words in art. 31(7) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(e)** (with art. 3)
- F78** Words in art. 31(7) omitted (11.12.2014) by virtue of The Nursing and Midwifery (Amendment) Order 2014 (S.I. 2014/3272), arts. 1, **8(e)(iii)**
- F79** Art. 31(9) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(f)** (with art. 3)
- F80** Art. 31(11) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(g)** (with art. 3)
- F81** Art. 31(12) substituted (31.3.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(2)(c)(d), **Sch. 1 para. 13(h)** (with art. 3)
- F82** Word in art. 31(14) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(i)** (with art. 3)
- F83** Words in art. 31(15) substituted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(j)** (with art. 3)
- F84** Word in art. 31(17) inserted (28.7.2017) by The Nursing and Midwifery (Amendment) Order 2017 (S.I. 2017/321), art. 1(4), **Sch. 1 para. 13(i)** (with art. 3)

Commencement Information

- I11** Art. 31 in force at 1.8.2004 as notified in the London Gazette (Issue 57361, published 21.7.2004), see **art. 1(2)(3)**

Investigation of allegations: procedural rules

32.—(1) The Council shall make rules as to the procedure to be followed by the [F85Fitness to Practise Committee] in considering any allegation and before making an order under article 29(5).

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

F86(a)

- (b) empowering [^{F87}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;
 - [^{F88}(h) where an allegation is referred by the Council ^{F89}... 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 [^{F90}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 [^{F91}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 [^{F92}chair] of the [^{F93}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

- F85** 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)
- F86** 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)
- F87** 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)
- F88** 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)
- F89** 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**
- F90** 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)
- F91** 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)
- F92** 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**
- F93** 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)

Commencement Information

- I12** 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\(2\)\(3\)](#)
- I13** 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\(2\)\(3\)](#)

Restoration to the register of persons who have been struck off

33.—^[F94](1) Where a person has been struck off the register by virtue of an order made under article 29(5)(a), 30(1)(b) or 38(3)(c) and the person wishes to be restored to the register, that person must make an application for restoration to the Registrar.]

(2) Subject to article 30(7), no such application may be made—

- (a) before the end of the period of five years beginning with the date on which the order under ^[F95]article 29(5)(a), 30(1)(b) or 38(3)(c) took effect; or
- (b) in any period of twelve months in which an application for restoration to the register has already been made by the person who has been struck off.

^[F96](3) An application for restoration must be referred by the Registrar to the Fitness to Practise Committee for determination.]

(4) Before making any decision on the application the Committee shall give the applicant an opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(5) The Committee shall not grant an application for restoration unless it is satisfied, on such evidence as it may require, that the applicant not only satisfies the requirements of article 9(2)(a) ^[F97], (b) and (ba)] but, having regard in particular to the circumstances which led to the making of the order under article 29, 30 or 38, is also a fit and proper person to practise the relevant profession.

(6) The Committee may make the granting of an application subject to the applicant satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.

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- (7) On granting an application for restoration, the Committee—
- (a) shall direct the Registrar to register the applicant in the relevant part of the register [F98 on his satisfying the Registrar as mentioned in article 10(4)(aa),] on his satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and
 - (b) may make a conditions of practice order with respect to him.
- (8) The provisions of article 29 shall have effect in relation to a conditions of practice order made under paragraph (7) as they have effect in relation to a conditions of practice order made under that article and article 30 shall apply as if the order made under paragraph (7) were an order made under article 29.
- (9) If, while a striking-off order is in force, a second or subsequent application for restoration to the register, made by the person who has been struck off, is unsuccessful, the [F99 Fitness to Practise Committee] may direct that that person's right to make any further such applications shall be suspended indefinitely.
- (10) A person in respect of whom a direction is made under paragraph (9) may, after the expiration of three years from the date on which the direction was made, apply to the Registrar for that direction to be reviewed and, thereafter, may make further applications for review but no such application may be made before the expiration of three years from the date of the most recent review decision.
- (11) The Registrar shall refer an application made under paragraph (10) to the [F100 Fitness to Practise Committee for determination].
- (12) A person whose application under paragraph (10) or whose application for restoration is refused or made subject to his satisfying requirements under paragraph (6) may appeal to the appropriate Court and article 38 shall apply to that appeal.
- (13) The appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the decision rejecting the application, or granting it but imposing conditions under paragraph (6), is served on the applicant.

Textual Amendments

- F94** Art. 33(1) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(a)** (with art. 3)
- F95** Words in art. 33(2)(a) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(b)** (with art. 3)
- F96** Art. 33(3) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(c)** (with art. 3)
- F97** Words in art. 33(5) substituted (18.1.2016) by [The Health Care and Associated Professions \(Knowledge of English\) Order 2015 \(S.I. 2015/806\)](#), arts. 1(3), **40**; S.I. 2015/1451, art. 4
- F98** Words in art. 33(7)(a) inserted (17.7.2014) by [The Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014 \(S.I. 2014/1887\)](#), art. 1(2), **Sch. 1 para. 27**
- F99** Words in art. 33(9) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(d)** (with art. 3)
- F100** Words in art. 33(11) substituted (28.7.2017) by [The Nursing and Midwifery \(Amendment\) Order 2017 \(S.I. 2017/321\)](#), art. 1(4), **Sch. 1 para. 15(e)** (with art. 3)

Modifications etc. (not altering text)

- C8** Art. 33 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), **8(2)(c)(3)**
- C9** Art. 33(9)-(11) 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), **9(6)**

Commencement Information

- I14** [Art. 33\(4\)\(7\)\(a\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I15** [Art. 33](#) 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\(2\)\(3\)](#)

Legal assessors

34.—(1) The Council shall appoint legal assessors.

(2) Legal assessors shall have the general function of giving advice to—

- ^{F101}(a)
- (b) the Practice Committees;
- (c) the Registrar; or
- (d) the Council,

on questions of law arising in connection with any matter which any of those persons is considering under article 9 or 10, Part V or VI.

(3) They may at the request of the person mentioned in paragraph (2) assist in the drafting of any decision required by this Order to be issued under any of the provisions mentioned in that paragraph.

(4) They shall have such other functions as may be conferred on them by rules made by the Council.

(5) To be qualified for appointment as a legal assessor, a person must—

- (a) have a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); or
- (b) be an advocate or solicitor in Scotland of at least 10 years' standing; or
- (c) be a member of the Bar of Northern Ireland of at least 10 years' standing.

(6) No person shall be a legal assessor if he is—

- (a) a member of the Council;
- (b) a member of a Practice Committee;
- (c) a ^{F102}... visitor or medical or registrant assessor; or
- (d) employed by the Council.

(7) The Council may make such provision in respect of legal assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of legal assessors for the purposes of enabling legal assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the legal assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Textual Amendments

F101 [Art. 34\(2\)\(a\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), [art. 1\(3\)](#), [Sch. 1 para. 23\(a\)](#)

F102 Word in [art. 34\(6\)\(c\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018](#) (S.I. 2018/838), [art. 1\(3\)](#), [Sch. 1 para. 23\(b\)](#)

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Commencement Information

- I16** [Art. 34\(4\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I17** [Art. 34](#) 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\(2\)\(3\)](#)

Medical assessors

- 35.**—(1) The Council may appoint registered medical practitioners to be medical assessors.
- (2) They shall have the general function of giving advice to—
 - ^{F103}(a)
 - (b) the Practice Committees;
 - (c) the Registrar; or
 - (d) the Council,

on matters within their professional competence in connection with any matter which any of those persons is considering.

- (3) They shall also have such other functions as may be conferred on them by rules made by the Council.
- (4) No person shall be a medical assessor if he is—
 - (a) a member of the Council;
 - (b) a member of a Practice Committee;
 - (c) a ^{F104}... visitor or legal or registrant assessor; or
 - (d) employed by the Council.
- (5) The Council may make such provision in respect of medical assessors as it may determine—
 - (a) for the payment of fees and allowances, including the payment of allowances to employers of medical assessors for the purposes of enabling medical assessors to perform functions under this article;
 - (b) for the reimbursement of such expenses as the medical assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Textual Amendments

- F103** [Art. 35\(2\)\(a\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 24\(a\)](#)
- F104** Word in [art. 35\(4\)\(c\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 24\(b\)](#)

Commencement Information

- I18** [Art. 35\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)
- I19** [Art. 35](#) 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\(2\)\(3\)](#)

Registrant assessors

- 36.**—(1) The Council may appoint registered professionals as registrant assessors.

(2) They shall have the general function of giving advice to—

- (a) the Council;
- (b) the committees of the Council; [^{F105}or]

^{F106}(c)

- (d) the Registrar,

on matters of professional practice arising in connection with any matter which any of those persons is considering.

(3) The assessors shall also have such other functions as may be conferred on them by rules made by the Council.

(4) No person shall be a registrant assessor if he is—

- (a) a member of the Council;
- (b) a member of a Practice Committee;
- (c) a ^{F107}... visitor or legal or medical assessor; or
- (d) employed by the Council.

(5) The Council may make such provision in respect of registrant assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of registrant assessors for the purposes of enabling registrant assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the registrant assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Textual Amendments

F105 Word in [art. 36\(2\)\(b\)](#) inserted (28.1.2019) by [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 25\(a\)](#)

F106 [Art. 36\(2\)\(c\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 25\(a\)](#)

F107 Word in [art. 36\(4\)\(c\)](#) omitted (28.1.2019) by virtue of [The Nursing and Midwifery \(Amendment\) Order 2018 \(S.I. 2018/838\)](#), [art. 1\(3\)](#), [Sch. 1 para. 25\(b\)](#)

Commencement Information

I20 [Art. 36\(3\)](#) in force at 5.3.2004 for specified purposes as notified in the London Gazette (Issue 57218, published 27.2.2004), see [art. 1\(2\)\(3\)](#)

I21 [Art. 36](#) 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:

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

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

- art. 5A(6A) inserted by [S.I. 2023/1286 Sch. 3 para. 61](#)
- art. 7(2A)-(2D) inserted by [S.I. 2023/1286 Sch. 3 para. 62](#)
- art. 9(4A) inserted by [S.I. 2023/1286 Sch. 3 para. 63\(a\)](#)
- art. 13(5A)-(5D) inserted by [S.I. 2023/1286 Sch. 3 para. 64\(b\)](#)
- art. 13ZA inserted by [S.I. 2023/1286 Sch. 3 para. 65](#)
- art. 21A inserted by [S.I. 2023/1286 Sch. 3 para. 66](#)
- art. 22(1)(a)(vi)(vii) inserted by [S.I. 2008/1485 Sch. 1 para. 4](#)