

SCHEDULE

The General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010

PART 5

Matters arising both before and during hearings

Evidence

24.—(1) All questions of admissibility of evidence and law before the Committee are to be decided by the Committee (after having obtained the advice of the legal adviser, where appropriate).

(2) Subject only to the requirements of relevance and fairness, the Committee may receive—

- (a) subject to paragraph (3), any documentary evidence; and
- (b) where a hearing is held, any oral evidence,

whether or not such evidence would be admissible in any subsequent civil proceedings if the decision of the Committee were appealed to the relevant court.

(3) Where a party wishes to adduce a witness statement, the Committee may only receive such evidence if the statement—

- (a) contains an attestation, in a format acceptable to the Committee, that the statement is true; and
- (b) is signed by the person making it.

(4) Where a person concerned has been convicted of a criminal offence in the British Islands (and has not successfully appealed against the conviction), a copy of the certificate of conviction certified by a competent officer of the court or for a conviction in Scotland, an extract conviction, is admissible as conclusive proof of that conviction and the findings of fact on which it was based.

(5) The only evidence which may be adduced by the person concerned in rebuttal of a conviction certified or extracted in accordance with paragraph (4) is evidence for the purpose of proving that the person concerned is not the person referred to in the certificate or extract.

(6) Where it is alleged that an applicant or registrant has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006⁽¹⁾ or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007⁽²⁾) by the Independent Barring Board (“the Board”)—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion is to be conclusive proof of that inclusion, unless the applicant or registrant concerned can prove that they are not the person referred to in the information provided; and
- (b) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact that led to that inclusion is conclusive proof of those facts.

(7) Where it is alleged that an applicant or registrant is included in the children’s or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007⁽³⁾)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion is conclusive proof of that inclusion,

(1) 2006 c.47.

(2) S.I. 2007 No.1351 (N.I.11).

(3) 2007 asp 14.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

unless the applicant or registrant concerned can prove that they are not the person referred to in the information provided; and

- (b) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact that led to that inclusion is conclusive proof of those facts.

(8) A formal notification of a determination about a person's fitness to practise made by a body responsible under any enactment for the regulation of a health or social care profession (in the United Kingdom or elsewhere), and signed by an officer authorised by that body to sign such a notification, is to be sufficient evidence, unless the contrary is proved, of any facts found proved by that regulatory body.

(9) The Committee may only allow a party to adduce written evidence at a hearing which has not been served in accordance with these Rules (or these Rules as modified by case management directions) in such exceptional circumstances as it may determine.

(10) In determining whether a registrant's fitness to practise is impaired by reason of physical or mental health, or when giving advice to the Registrar in relation to an applicant's physical or mental health, the Committee may take into account, amongst other matters—

- (a) a refusal by the person concerned to submit to medical examination;
- (b) the current physical or mental condition of the person concerned;
- (c) any continuing or episodic condition suffered by the person concerned; and
- (d) any underlying condition suffered by the person concerned which, although in remission, is capable of causing impairment of fitness to practise if it recurs.

(11) Where the Committee finds that a registrant concerned has failed to comply with the standards, that failure—

- (a) may be taken into account by the Committee in determining whether or not the registrant concerned's fitness to practise is impaired; and
- (b) is not, of itself, to be taken to establish that the registrant's fitness to practise is impaired.

(12) In paragraph (11), "the standards" means the standards of conduct, ethics and performance (including the Council's Code of Conduct, Ethics and Performance and the related guidance) published by the Council under article 48(2) of the Order.