

SCHEDULE

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

PART 6

Procedure at hearings

Procedure at principal hearings before the Committee in disqualification proceedings

32.—(1) Unless the Committee determines otherwise, the order of proceedings at a principal hearing in disqualification proceedings is to be in accordance with paragraphs (2) to (17).

(2) The Committee must hear and consider any preliminary legal arguments.

(3) The chair must—

(a) where the section 80 party or a representative of the party is present, require the party or representative to confirm the party's name, or

(b) otherwise, require the presenter to confirm the section 80 party's name.

(4) The person acting as secretary must read out the allegation, and the alleged facts upon which it is based.

(5) The chair must inquire whether the section 80 party wishes to make any admissions.

(6) Where facts have been admitted, the chair must announce that such facts have been found proved.

(7) Where facts remain in dispute, the presenter is to open the case for the Council and may adduce evidence and, subject to paragraph (19), call witnesses in support of it.

(8) The section 80 party may make submissions regarding whether sufficient evidence has been adduced to find the facts proved and the Committee must consider and announce its decision as to whether any such submissions should be upheld.

(9) The section 80 party may open their case and may adduce evidence and, subject to paragraph (19), call witnesses in support of it.

(10) The Committee must consider and announce its findings of fact.

(11) In a case falling within section 80(1)(b) or (4)(b) of the Act, the Committee must consider and announce its finding on the question of whether, in its opinion, the offence or misconduct renders the section 80 party unfit to be a pharmacist or would so render the party if the party were a pharmacist and give its reasons for that decision.

(12) Paragraph (13) applies where—

(a) the decision under paragraph (11) is that the offence or misconduct renders the party unfit to be a pharmacist or would so render the party if the party were a pharmacist; or

(b) in a case falling within section 80(1)(c) of the Act, the failure in question is by a member of the board or any officer of, or person employed by, the body in question.

(13) Where this paragraph applies, the Committee must—

(a) receive evidence about the facts specified in section 81(2) of the Act; and

(b) consider whether, having regard to those facts, the board of the body corporate or, as the case may be, the representative, is to be regarded as responsible for the offence, misconduct or failure in question.

(14) The Committee may receive further evidence and hear any further submissions from the parties or from any other person who has a direct interest in the proceedings as to whether a direction

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under section 80(1) or (4) of the Act should be imposed, including evidence as to any mitigating circumstances and any relevant matters in the previous history of the section 80 party.

(15) The Committee must consider and announce its decision as to whether or not a direction under section 80(1) or (4) of the Act should be given and must give its reasons for that decision.

(16) Where the decision under paragraph (15) is that the direction should be given, the chair must agree to that decision.

(17) At any stage before making its decision as to disqualification, the Committee may adjourn for further information or reports to be obtained in order to assist it in exercising its functions.

(18) Where the Council becomes aware that a section 80 party has failed to comply with any undertakings agreed under rule 26(2)(a), the Committee must—

- (a) resume its consideration of the matter (the procedure at the hearing being for the Committee to determine); and
- (b) reconsider the sanction imposed, and may instead issue a direction under section 80(1) or, as the case may be, (4), of the Act.

(19) The chair may refuse to allow a witness to give oral evidence, or to give oral evidence on a particular matter—

- (a) if not satisfied that the witness is in a position to provide relevant testimony; or
- (b) if satisfied that all or part of the evidence that the witness is to provide, or is to provide on that matter, should have been disclosed to the party not calling the witness at an earlier stage in the proceedings.

(20) Notwithstanding the procedure set out in paragraphs (2) to (17), the Committee may allow the parties to make additional submissions at any time.