

SCHEDULE

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

PART 2

Initial consideration by the Registrar

Initial action in respect of allegations

- 6.—(1) The Registrar may only refer an allegation where—
- (a) the person concerned is identifiable; and
 - (b) the allegation is capable of being referred.
- (2) The Registrar must not refer the allegation where—
- (a) in the case of a fitness to practise allegation, the allegation is of a type stated in the threshold criteria which should not be referred;
 - (b) more than five years have elapsed since the most recent events referred to in the allegation unless the Registrar considers that it is necessary for the protection of the public, or otherwise in the public interest, for the allegation to be referred; or
 - (c) the allegation is made by an informant who—
 - (i) is anonymous and the allegation is not capable of verification from an independent source; or
 - (ii) is identifiable but does not participate in the consideration of the allegation and the allegation is not capable of verification from an independent source.
- (3) The Registrar's consideration of an allegation under paragraphs (1) and (2) may include the carrying out of any investigations which, in the Registrar's opinion, are appropriate to the consideration of it.
- (4) Investigations referred to in paragraph (3) may include—
- (a) requesting the Council's employees to undertake further inquiries;
 - (b) requesting the informant to provide a written statement or statutory declaration;
 - (c) instructing solicitors and inquiry agents; or
 - (d) in relation to a health allegation, requiring the person concerned to agree to be medically examined by a registered medical practitioner nominated by the Council.
- (5) The allegation must be referred to the Committee instead of to the Investigating Committee if the Registrar considers that—
- (a) the Committee should consider making an interim order, and if the Registrar does so consider, the Registrar must notify the Committee accordingly; or
 - (b) the public interest is best served by urgent consideration of the case.
- (6) The Registrar must also refer an allegation to the Committee instead of to the Investigating Committee if—
- (a) it relates to a conviction for one or more criminal offences and the sentence imposed in respect of one offence or in respect of some or all of those offences, is a custodial or suspended custodial sentence;

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- (b) it relates to a determination by a regulatory body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession that the registrant's fitness to practise is impaired.
- (7) The Registrar may refer an allegation to the Committee instead of to the Investigating Committee where—
- (a) in so far as the allegation relates to an entry in the Register, the Registrar has reasonable grounds for believing that that entry may have been fraudulently procured or incorrectly made; and
 - (b) the Registrar considers that the allegation should be so referred.
- (8) Where the Registrar refers an allegation to the Committee under paragraph (5), (6) or (7), the Registrar must inform the person concerned and the informant, if any, that the allegation has been so referred.

Notices of referral and documents to be supplied to persons concerned

7.—(1) Once the Registrar has taken a decision to refer a fitness to practise allegation or a disqualification allegation to the Investigating Committee, the Registrar must—

- (a) send to the person concerned a notice of referral to the Investigating Committee;
 - (b) provide that person with—
 - (i) copies of all documentation, including summaries of relevant information, to be placed by the Registrar before the Investigating Committee, and
 - (ii) a copy of the threshold criteria.
- (2) The notice of referral to the Investigating Committee must in terms—
- (a) particularise the allegation;
 - (b) set out any recommendations for disposal of the case made by the Registrar;
 - (c) specify a date for the meeting of the Investigating Committee which will consider the allegation, which must be no less than 28 days after the date of service of the notice of referral;
 - (d) inform the person concerned of the Investigating Committee's powers—
 - (i) to dismiss the case,
 - (ii) in relation to a health allegation, to require the person concerned to undergo a medical examination,
 - (iii) to issue warnings,
 - (iv) to agree undertakings,
 - (v) to give advice to the person concerned or to other persons,
 - (vi) to refer the matter to the Committee, and
 - (vii) in respect of the initiation of criminal proceedings;
 - (e) invite the person concerned to indicate, no later than 21 days after the date of service of the notice, whether the particulars of the allegation set out in the notice are admitted or denied;
 - (f) invite the person concerned to provide written representations on the allegation, and on any recommendations for disposal of the case made by the Registrar;
 - (g) state that any written representations must be submitted to the Investigating Committee no later than 21 days after the date of service of the notice;
 - (h) inform the person concerned that any representations, or extracts of any representations, received may be shown to the informant, if any, for comment;

- (i) inform the person concerned that the Investigating Committee may seek further information from any source for the purposes of carrying out its functions in investigating the allegation, including from the person concerned's employer, if any.
- (3) A person who is the subject of a criminal conduct allegation must not be notified where that allegation is referred to the Investigating Committee, unless that person is a registrant and the allegation is being referred together with a fitness to practise or a disqualification allegation.

Applications for restoration

8.—(1) Subject to the following provisions of this rule, any person applying for restoration to Part 1 or 2 of the Register under article 57 of the Order must apply using the relevant application form, which is to be in such form as the Council may from time to time determine.

- (2) The application form must (amongst other matters)—
 - (a) require persons applying under paragraph (1) to—
 - (i) provide their full home address and contact details (including a telephone number and electronic mail address, where possible),
 - (ii) give reasons for saying that their fitness to practise is no longer impaired,
 - (iii) specify the part of the Register to which they are applying to be restored,
 - (iv) provide any necessary supporting documentation, as mentioned in paragraph (3), and
 - (v) sign and date the application; and
 - (b) include a demand that any relevant prescribed fee be paid.

(3) Persons applying for restoration to Part 1 or, as the case may be, Part 2 of the Register under article 57 of the Order must provide to the Registrar, together with their completed application form—

- (a) at least two certificates attesting to their identity and good character, one of which must be given by a registrant in good standing with the Council;
- (b) sufficient evidence to demonstrate their fitness to return to practice, which may include—
 - (i) evidence of activities designed to address or learn from the original allegation,
 - (ii) evidence of learning activities designed to keep up to date with skills and knowledge, and with developments in practice, and
 - (iii) evidence demonstrating insight into the gravity of the allegation which resulted in their removal from the register; and
- (c) any necessary supporting documentation, information or evidence as mentioned in the completed application form, and such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in, or determining, the application.

(4) The Registrar must not accept a certificate of the type referred to in paragraph (3)(a) as a valid part of the application unless there is an indication on the face of the certificate that the person signing it—

- (a) knows why the person was removed from Part 1 or, as the case may be, Part 2 of the Register; and
- (b) has seen a copy of the reasons given for the person's removal from the relevant part of the Register.

(5) The Registrar must refuse the application if the relevant prescribed fee is not paid.