

## SCHEDULE

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

### PART 4

#### Consideration by the Committee: initial stages

##### Action upon referral of an allegation

**13.**—(1) After referral of an allegation by the Registrar or the Investigating Committee to the Committee—

- (a) in the case of a health allegation, the chair may require the person concerned to agree to be medically examined by a registered medical practitioner nominated by the Council;
- (b) the Registrar must take such steps as, in the Registrar's opinion, are desirable or necessary to assist the Council in the preparation of the case for hearing; and
- (c) the secretary must serve on both of the parties a listing questionnaire, which must be in the format determined by the secretary.

(2) In a case where the Registrar has referred an allegation to the Committee instead of to the Investigating Committee, the Council may request a case management meeting.

##### Disclosure provisions

**14.**—(1) As soon as is reasonably practicable after the date on which the person concerned is served with the notice given under rule 11 ("the referral date"), the Council must serve on the person concerned—

- (a) finalised particulars of the allegation, sufficiently particularised to enable them to understand the allegation;
- (b) any statements of evidence, expert reports or other documents relied upon by the Council in support of its case, not previously served upon the person concerned;
- (c) any evidence or documents that the Council has in its possession (other than documents for which privilege is claimed) which, whilst not relied upon by the Council, may assist the person concerned in the preparation of their defence;
- (d) a list of witnesses whose evidence is (or whose oral evidence will be) relied upon by the Council in support of its case;
- (e) a copy of the listing questionnaire duly completed by the Council; and
- (f) any time estimate for the duration of the Council's case.

(2) As soon as reasonably practicable after the date of service of the material set out in paragraph (1), the person concerned must serve on the secretary—

- (a) an agreed time estimate for the duration of the hearing; and
- (b) a copy of the listing questionnaire, duly completed by the person concerned.

(3) If the parties are unable to agree a time estimate for the duration of the hearing, they must request case management directions.

(4) As soon as reasonably practicable after the date of service of the material set out in paragraph (1) and in any event, not less than 28 days before the date of the hearing, the person concerned must serve on the Council—

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- (a) any statements of evidence (including witness statements), expert reports or other documents; and
- (b) a list of witnesses whose evidence is (or whose oral evidence will be),  
relied upon by the person concerned in support of their case.

(5) The parties must notify the secretary of any changes to the agreed time estimate for the hearing or to the information provided by the parties in the listing questionnaire as soon as possible after becoming aware that that estimate or information has changed.

### **Inspection of documents**

**15.**—(1) At any time after the service of a document by a party under this Part, up until the commencement of the relevant hearing, the party being served with the document may serve notification on the other party in possession of the original version of the document that the party wishes to inspect and examine it.

(2) The party in possession of the original version of the document must provide facilities for its inspection and examination—

- (a) within 10 days from the date on which the request was notified; or
- (b) if the request is notified less than 10 days before the date on which the relevant hearing commences, as soon as is reasonably practicable to provide those facilities.

### **Notices of hearing other than interim order hearings**

**16.**—(1) Where the Committee is to hold a hearing, other than an interim order hearing, the secretary must serve a Notice of Hearing on the parties no less than 28 days before the date fixed for the hearing.

(2) The Notice of Hearing must—

- (a) state the date, time and venue of the hearing;
- (b) in the case—
  - (i) of a principal hearing, contain the finalised particulars of the allegation,
  - (ii) where the Registrar is seeking the advice of the Committee under—
    - (aa) rule 10(8) of the Registration Rules, contain a statement of the Registrar’s grounds for believing that the applicant’s fitness to practise may be impaired for reasons other than adverse physical or mental health,
    - (bb) rule 10(10) of the Registration Rules, contain a statement of the Registrar’s grounds for believing that the applicant’s fitness to practise may be impaired because of adverse physical or mental health, and
    - (cc) rule 20(2)(a) of the Registration Rules for the purposes of making findings of fact, contain a statement from the Registrar of the matters on which findings of fact are sought;
- (c) where the Committee is to review directions previously given (including in relation to applications for restoration and applications under section 83 of the Act), contain a copy of the directions under review and the Committee’s reasons for making the directions;
- (d) inform the person concerned of their right to attend and to be represented or accompanied at the hearing in accordance with rule 40;
- (e) inform the person concerned that the Committee may proceed with the hearing in their absence in accordance with rule 25;
- (f) inform the person concerned of—

- (i) the relevant provisions of rules 31 to 35 relating to the procedure at the hearing,
  - (ii) the provisions relating to evidence set out in rule 24, and
  - (iii) the provisions relating to witness evidence set out in rules 43 and 44;
- (g) require the person concerned to inform the secretary, within 14 days beginning with the date on which the Notice of Hearing is served, whether they intend to—
- (i) attend the hearing,
  - (ii) be represented at the hearing, and if so, by whom,
  - (iii) seek to call any witnesses at the hearing, and if so whom,
  - (iv) in the case of a principal hearing, make any admissions in respect of the allegation, or
  - (v) where a case has been referred to the Committee under rule 20(2)(a) of the Registration Rules for the purposes of making findings of fact, make any admissions;
- (h) if the person concerned is a registrant, inform them of the powers of the Committee to make an interim order;
- (i) in the case of a principal hearing, inform the person concerned of the sanctions that may be imposed;
- (j) in the case of a review hearing in fitness to practise proceedings, inform the registrant concerned of the Committee's powers to vary or revoke any sanctions that have been imposed; and
- (k) in the case of a restoration hearing, inform the applicant concerned of the Committee's powers to impose conditions if they are restored to the register.

### **Interim Order Notices and court referrals**

**17.—**(1) Where the Committee is to hold an interim order hearing, the secretary must serve on the registrant concerned an Interim Order Notice.

(2) The Interim Order Notice must—

- (a) state the date, time and venue of the hearing;
- (b) inform the registrant of their right to attend and to be represented or accompanied at the hearing in accordance with rule 40;
- (c) inform the registrant that the Committee may proceed with the hearing in their absence in accordance with rule 25;
- (d) require the registrant to inform the secretary, by a specified date, whether the registrant intends to—
  - (i) attend the hearing,
  - (ii) oppose the making of an interim order, and
  - (iii) be represented at the hearing, and if so, by whom;
- (e) invite the registrant, if they do not wish to attend the hearing, to submit written representations to the Committee before the date of the hearing;
- (f) if there is no interim order in force in relation to the registrant, state the reasons why the Council is seeking an interim order; and
- (g) where the hearing is to review an interim order, include the terms of the order under review.

(3) The Interim Order Notice must be served on the registrant on a date which provides the registrant with reasonable notice of the hearing in the particular circumstances of the case.

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(4) Where it appears to the secretary that an application should be made to the relevant court under article 56(5) of the Order to extend, or further extend, the period of an interim order, the secretary must advise the Committee accordingly, and the Committee may advise the Council to make the application.

### **Hearing bundles**

**18.**—(1) This rule does not apply in respect of interim order hearings.

(2) Before any hearing, no later than 16 days before the Monday of the week in which the hearing is to take place before the Committee, the parties must serve on each other copies of the bundles on which they intend to rely at the hearing.

(3) No later than 9 days before the Monday of the week in which the hearing is to take place, the parties must serve on the secretary, 10 paginated copies of—

- (a) where the bundle for the hearing has been agreed between the parties, the agreed bundle; or
- (b) where the bundle for the hearing has not been agreed between the parties—
  - (i) any part of the bundle that has been agreed, and
  - (ii) a statement from the party seeking to rely on any disputed material why the party seeks to include it in their bundle;
- (c) a statement of each party's case; and
- (d) where the case necessitates consideration of a point of law, each party's skeleton argument.

(4) No later than 9 days before the Monday of the week in which the hearing is to take place, the parties must serve on the secretary a list indicating—

- (a) any witness whose evidence has been agreed and who therefore does not need to be called; and
- (b) any witness who is to be called to give oral evidence before the Committee.

(5) Any document which has not been served on the secretary by the end of the period specified in paragraph (3) is, except in exceptional circumstances, not to be admitted into evidence at the hearing.

### **Request for a case management meeting**

**19.**—(1) A party to proceedings before the Committee may at any time serve on the secretary and the other party a written request for a case management meeting (in addition to the occasions on which they must, by virtue of these Rules, make such a request).

(2) The request must—

- (a) state the reasons why the party is seeking a case management meeting;
- (b) state what directions are sought for the management of the case (and the party may enclose draft directions where appropriate);
- (c) state whether the person making the request seeks the participation of the parties at the meeting (and if so, the preferred format for that meeting) or whether the issues can be dealt with by way of directions without oral representations from the parties.

(3) The secretary shall send a copy of the request, together with any other material considered relevant, to the chair.

(4) The chair must agree to the request for a case management meeting unless the chair determines that the meeting is unnecessary or the request is an abuse of process.

### **Case management meetings**

**20.**—(1) Where requested by the chair, the secretary must list the matter for a case management meeting<sup>(1)</sup>.

(2) The secretary must give the parties such notice of the meeting as is reasonable in the particular circumstances of the case.

(3) Case management meetings may be conducted by video link, teleconference or such other method as is agreed by the parties or, where the parties fail to agree, decided by the chair.

(4) The chair is to act independently of the parties and may give directions to secure the just, expeditious and effective running of the proceedings before the Committee.

(5) Case management meetings are to be held in private.

### **Case management directions**

**21.**—(1) Case management directions may be issued—

(a) at a case management meeting;

(b) upon the request of a party (in circumstances where there is no request or requirement to hold a case management meeting); or

(c) by the chair of their own volition.

(2) Such case management directions may be issued as are considered necessary for the just and expeditious management of the case, and may include, but are not limited to—

(a) providing that either or both parties must comply with the provisions of rule 14, 15 or 18 within such period as may be specified in the direction;

(b) requiring the parties to obtain, and to disclose within a specified period, evidence and expert reports;

(c) requiring each party to provide an estimate of the length of the hearing and any dates on which they or any witnesses would not be able to attend the hearing;

(d) where facts are not in dispute or the allegation is admitted, requiring the parties to produce a statement of agreed facts;

(e) requiring the parties to state whether or not the health of the person concerned will be raised as an issue in the proceedings, and if so, whether, in their view, medical reports should be obtained;

(f) requiring a party to call the author of any expert report at the hearing;

(g) where agreed between the parties, directing that the witness statement of a witness is to stand as the evidence-in-chief of that witness;

(h) directing that special measures be put in place at the hearing for a vulnerable witness, including measures aimed at protecting the witness's identity;

(i) requiring chronologies and additional skeleton arguments to be produced by the parties;

(j) directing that a further case management meeting should be held; and

(k) obtaining rulings from the Committee for the purpose of resolving questions of law or admissibility of evidence.

(3) Any rulings as mentioned in paragraph (2)(k) are binding on the Committee hearing the allegation.

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(1) By virtue of rule 18(3) of the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010 which are scheduled to [S.I.2010/1616](#), a case management meeting must be conducted by the chair. By virtue of rule 21(4) of those Rules, if the chair is not legally qualified (as defined in rule 2 of those Rules), a legal adviser must also be present at a case management meeting.

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(4) The secretary must keep a record of any case management directions given and must send written confirmation of such directions to the parties promptly.

(5) The Committee may draw such inferences as it considers appropriate in respect of the failure by a party to comply with case management directions.