
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 311

**The Council of the Pharmaceutical Society
of Northern Ireland (Fitness to Practise and
Disqualification) Regulations (Northern Ireland) 2012**

PART 3

Consideration by the Scrutiny Committee

Procedures of the Scrutiny Committee

10.—(1) The Scrutiny Committee is to meet in private.

(2) The chair of the Scrutiny Committee may give practice directions of general application to any proceedings of the Scrutiny Committee.

(3) The Scrutiny Committee may not hear oral evidence.

(4) Before disposing of any allegation before it, the Scrutiny Committee—

(a) must—

- (i) consider all documents and recommendations placed before it by the registrar, and
- (ii) have regard to its own published referral criteria;

(b) may—

- (i) direct that further investigations should be undertaken;
- (ii) obtain advice from a legal, clinical or other specialist adviser; and
- (iii) adjourn its consideration of an allegation until such time as any further information has been obtained, any comments from the informant, if any, are received, or where the person concerned has undergone a medical examination, a report on the person concerned has been prepared.

(5) In fitness to practise or disqualification proceedings the Scrutiny Committee—

(a) must in all cases—

- (i) consider any written representations received from the person concerned, and
- (ii) have regard to any relevant practice directions given by the chair of the Scrutiny Committee, and

(b) may send any written representations received from the person concerned to the informant, if any, for comment.

(6) In relation to a health allegation, the Scrutiny Committee may—

(a) require the person concerned to agree to be medically examined by a medical practitioner nominated by the Society, and

- (b) where it receives information that the person concerned has refused to co-operate fully with a medical examination, refer that matter to the Statutory Committee as a separate allegation.
- (7) Where the Scrutiny Committee decides to refer an allegation to the Statutory Committee and is of the view that—
- (a) case management directions should be given; or
 - (b) an interim order should be made,
- it must notify the Statutory Committee accordingly.
- (8) The Scrutiny Committee must not refer any—
- (a) fitness to practise allegation to the Statutory Committee unless it is satisfied that there is a real prospect that the Statutory Committee will make a finding that the registered person's fitness to practise is impaired; or
 - (b) disqualification allegation to the Statutory Committee unless it is satisfied that there is a real prospect that the Statutory Committee will give a direction for disqualification.

Agreement of undertakings by the Scrutiny Committee

11.—(1) Where the registered person concerned admits that their fitness to practise is impaired, the Scrutiny Committee may, if it thinks fit, dispose of fitness to practise proceedings by agreeing undertakings with the registered person concerned (that is, that the registered person concerned will comply with such undertakings as the Scrutiny Committee considers appropriate), instead of referring the allegation to the Statutory Committee.

(2) Where the Scrutiny Committee has disposed of a case in accordance with paragraph (1) and it subsequently receives information that those undertakings have not been complied with, it may—

- (a) refer the original allegation to the Statutory Committee and treat the failure to comply with the undertakings as a separate allegation of misconduct and refer that allegation to the Statutory Committee; or
- (b) determine not to refer the original allegation to the Statutory Committee but treat the failure to comply with the undertakings as a separate allegation of misconduct and refer that allegation to the Statutory Committee.

(3) Where the Scrutiny Committee has disposed of a case in accordance with paragraph (1) and it subsequently receives information that those undertakings may no longer be appropriate, it may—

- (a) with the agreement of the registered person concerned, vary those undertakings; or
- (b) determine that those undertakings no longer apply.

Recording in the register of decisions by the Scrutiny Committee

12. Where the Scrutiny Committee—

- (a) gives a warning to a registered person; or
- (b) agrees undertakings with a registered person that relate to the registered person's fitness to practise,

the registrar must ensure that an appropriate alteration to that registered person's entry in the register is made to record the details of that warning or undertaking.

Notices

13.—(1) In the case of a fitness to practise allegation, the information to be provided by the registrar under paragraphs 6(2)(b) or (3)(c) of Schedule 3 to the Order or under regulation 5(10)

must be in a notice which is to be sent to the registered person concerned and the informant, if any, no later than 10 days after and including the date on which the relevant decision was made or, as the case may be, the allegation was referred.

(2) In the case of a disqualification allegation, the secretary to the Scrutiny Committee must inform the section 80 party of the decision of the Scrutiny Committee to refer, or not to refer, the allegation, and must do so in a notice of decision which is to be sent to the party no later than 10 days after and including the date on which the relevant decision was made.

(3) The notice under paragraph (1) or (2) must include the reasons for the decision or the referral and be accompanied by any legal advice considered by the Scrutiny Committee or the registrar.

(4) Where the Scrutiny Committee has decided not to refer an allegation to the Statutory Committee, the notice under paragraph (1) or (2) must inform the person concerned that the Scrutiny Committee may nevertheless reconsider the allegation in the circumstances set out in regulation 14.

(5) Where the Scrutiny Committee has decided to dispose of the allegation by agreeing undertakings or issuing a warning, the notice under paragraph (1) or (2) must, subject to paragraph (6), be accompanied by a statement setting out the undertakings or the warning.

(6) The statement referred to in paragraph (5) must not be sent to the informant if it includes undertakings relating to the health of a person concerned.

(7) If the statement relates to undertakings, it must also state, in terms, that if the Scrutiny Committee subsequently receives information that those undertakings have not been complied with, it may—

- (a) refer the original allegation to the Statutory Committee and treat the failure to comply with the undertakings as a separate allegation of misconduct and refer that allegation to the Statutory Committee; or
- (b) determine not to refer the original allegation to the Statutory Committee but treat the failure to comply with the undertakings as a separate allegation of misconduct and refer that allegation to the Statutory Committee.

(8) Where the Scrutiny Committee or the registrar has referred the matter to the Statutory Committee, the notice under paragraph (1) or (2)—

- (a) must particularise the matters to be referred; and
- (b) where the Scrutiny Committee or the registrar is of the view that the Statutory Committee should consider making an interim order, state the reasons for its view.

Reconsideration of allegations

14.—(1) Where—

- (a) the Scrutiny Committee has considered a fitness to practise or a disqualification allegation and decided not to refer it to the Statutory Committee; and
- (b) within 5 years from the date of service of the notice given under regulation 13, the Society receives a new allegation about the person concerned,

the Scrutiny Committee may take the action specified in paragraph (2).

(2) The Scrutiny Committee may—

- (a) when considering whether or not to refer the new allegation to the Statutory Committee, have regard to the original allegation; and
- (b) may refer both the original allegation and the new allegation to the Statutory Committee.

(3) Where the Scrutiny Committee has disposed of a fitness to practise or disqualification allegation, and within 5 years of that decision receives new evidence or information which makes the reconsideration of that decision—

- (a) necessary for the protection of the public;
- (b) necessary for the prevention of injustice to the person concerned; or
- (c) otherwise necessary in the public interest,

it may reconsider the allegation.

(4) The Scrutiny Committee may reconsider an allegation where it receives information that the Society has erred in its administrative handling of the case and it is satisfied that it is necessary in the public interest to do so.

(5) Where the Scrutiny Committee has decided to reconsider a fitness to practise or disqualification allegation, the secretary to the Scrutiny Committee must—

- (a) inform the person concerned and the informant, if any, of the decision to reconsider the allegation;
- (b) inform the person concerned and, where appropriate, the informant, if any, of any new evidence or information;
- (c) provide the person concerned and, where appropriate, the informant, if any, with copies of any new evidence and summaries of any new information received;
- (d) seek written representations from the person concerned and the informant, if any, on—
 - (i) the decision to reconsider the allegation, and
 - (ii) any new evidence or information received (unless, in the case of the informant, if any, this has not been sent to the informant).

(6) Following reconsideration of the original allegation, the original decision not to refer the allegation to the Statutory Committee may be rescinded in appropriate circumstances.

(7) Following reconsideration of the allegation, a new notice must be sent as provided for in regulation 13.