



National Health Service Reform and Health Care Professions Act 2002

2002 CHAPTER 17

PART 2

HEALTH CARE PROFESSIONS

The Council for the Regulation of Health Care Professionals

29 Reference of disciplinary cases by Council to court

(1) This section applies to—

- (a) a direction of the Statutory Committee of the Royal Pharmaceutical Society of Great Britain under section 8 of the Pharmacy Act 1954 (c. 61) (control of registrations by Statutory Committee) or section 80 of the Medicines Act 1968 (c. 67) (power to disqualify and direct removal from register),
- (b) a direction of the Statutory Committee of the Pharmaceutical Society of Northern Ireland under Article 20 of the Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22)) (control of registrations by Statutory Committee) or section 80 of the Medicines Act 1968,
- (c) a direction by the Professional Conduct Committee of the General Medical Council under section 36 of the Medical Act 1983 (c. 54) (professional misconduct and related offences),
- (d) a direction by the Committee on Professional Performance of the General Medical Council under section 36A of that Act (professional performance),
- (e) a determination by the Professional Conduct Committee of the General Dental Council under section 27 of the Dentists Act 1984 (c. 24) (erasure or suspension of registration for crime or misconduct),
- (f) a disciplinary order made by the Disciplinary Committee of the General Optical Council under section 17 of the Opticians Act 1989 (c. 44) (powers of Disciplinary Committee),

Status: This is the original version (as it was originally enacted).

- (g) any step taken by the Professional Conduct Committee of the General Osteopathic Council under section 22 of the Osteopaths Act 1993 (c. 21) (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee),
 - (h) any step taken by the Professional Conduct Committee of the General Chiropractic Council under section 22 of the Chiropractors Act 1994 (c. 17) (which relates to corresponding matters),
 - (i) any corresponding measure taken in relation to a nurse, midwife or health visitor,
 - (j) any corresponding measure taken in relation to a member of a profession regulated by the Professions Supplementary to Medicine Act 1960 (c. 66) or, after the repeal of that Act by virtue of section 60(3) of the 1999 Act, by any such Order in Council under section 60 of the 1999 Act as is mentioned in section 25(3)(i).
- (2) This section also applies to—
- (a) a final decision of the relevant committee not to take any disciplinary measure under the provision referred to in whichever of paragraphs (a) to (h) of subsection (1) applies,
 - (b) any corresponding decision taken in relation to a nurse, midwife or health visitor, or to any such person as is mentioned in subsection (1)(j) and
 - (c) a decision of the relevant regulatory body, or one of its committees or officers, to restore a person to the register following his removal from it in accordance with any of the measures referred to in paragraphs (a) to (j) of subsection (1).
- (3) The things to which this section applies are referred to below as “relevant decisions”.
- (4) If the Council considers that—
- (a) a relevant decision falling within subsection (1) has been unduly lenient, whether as to any finding of professional misconduct or fitness to practise on the part of the practitioner concerned (or lack of such a finding), or as to any penalty imposed, or both, or
 - (b) a relevant decision falling within subsection (2) should not have been made, and that it would be desirable for the protection of members of the public for the Council to take action under this section, the Council may refer the case to the relevant court.
- (5) In subsection (4), the “relevant court”—
- (a) in the case of a person whose address in the register of practitioners in question is (or if he were registered would be) in Scotland, means the Court of Session,
 - (b) in the case of a person whose address in the register of practitioners in question is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland, and
 - (c) in the case of any other person (including one who is not registered and is not seeking registration or restoration to the register), means the High Court of Justice in England and Wales.
- (6) The Council may not so refer a case after the end of the period of four weeks beginning with the last date on which the practitioner concerned has the right to appeal against the relevant decision.
- (7) If the Council does so refer a case—

- (a) the case is to be treated by the court to which it has been referred as an appeal by the Council against the relevant decision (even though the Council was not a party to the proceedings resulting in the relevant decision), and
 - (b) the body which made the relevant decision is to be a respondent.
- (8) The court may—
- (a) dismiss the appeal,
 - (b) allow the appeal and quash the relevant decision,
 - (c) substitute for the relevant decision any other decision which could have been made by the committee or other person concerned, or
 - (d) remit the case to the committee or other person concerned to dispose of the case in accordance with the directions of the court,
- and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.