

APPENDIX

THE GENERAL MEDICAL COUNCIL PRELIMINARY PROCEEDINGS COMMITTEE AND PROFESSIONAL CONDUCT COMMITTEE (PROCEDURE) RULES 1988

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Explanatory Note

The General Medical Council, in exercise of their powers under paragraphs 1 and 5 of Schedule 4 to the Medical Act 1983, and after consulting with such bodies of persons representing medical practitioners as appeared to the Council to be requisite, as required by those paragraphs, hereby make the following Rules:—

PART I PRELIMINARY

Citation and commencement

1. These Rules may be cited as the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988, and shall come into operation on 15th January 1989.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires:

“the Act” means the Medical Act 1983;

“case relating to conviction” means a case where it is alleged that a practitioner has been convicted, whether while registered or not, in the British Islands of a criminal offence;

“case relating to conduct” means a case where a question arises whether conduct of a practitioner constitutes serious professional misconduct;

“the Committee” means, in Part III of the rules, the Preliminary Proceedings Committee and, in Parts IV to VII of the rules, the Professional Conduct Committee;

“complainant” means a body or person by whom a complaint has been made to the Council;

“the Council” means the General Medical Council or a Committee of the Council acting under delegated power;

“the Health Committee (Procedure) Rules” means Rules made by the Council in the exercise of the powers conferred on them by paragraph 1 of Schedule 4 to the Act and references to

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those Rules are to the Rules currently in force and, unless the contrary intention appears, to such Rules as amended;

“the legal assessor” means an assessor appointed by the Council under paragraph 7 of Schedule 4 to the Act;

“party” has the meaning given in paragraph 13 of Schedule 4 to the Act;

“person acting in a public capacity” means an officer of a Health Authority, Health Board, Common Services Agency or Board of Governors of a hospital, or of a Local or Area Medical Committee or Family Practitioner Committee, or of a Hospital Medical Staff Committee or body exercising similar functions, or of a Licensing Body (that is, a University or other body granting primary United Kingdom qualifications), acting as such, or of a Government Department or local or public authority, or any person holding judicial office, or any officer attached to a Court, or the Solicitor to the Council;

“practitioner” means a person registered (in any way) under the Act and includes a person who has previously been registered and whose registration is currently suspended under section 36 or section 42 of the Act; and references to the practitioner, in relation to any complaint, information or proceedings, are references to the practitioner who is alleged to have been convicted, or whose fitness to practise or conduct is or has been called into question, as the case may be.

“the President” means the President of the Council and includes any other member appointed under rule 4, or under rule 5(2) to (4) of the Health Committee (Procedure) Rules, to undertake functions of the President in initial consideration of cases under rules 5 to 8, 10, and 14 and, if the other member has been appointed to be Chairman of the Preliminary Proceedings Committee, functions of the President under rules 13, 18, 19, 22, 27, 46 and 52(2);

“the Register”, in relation to fully or provisionally registered persons, means the Register of Medical Practitioners, and in relation to persons with limited registration means the Register of Medical Practitioners with limited Registration;

“the Registrar” means the Registrar of the Council;

“the Solicitor” means any Solicitor, or any firm of Solicitors, appointed by the Council, or any partner of such a firm;

- (2) In these Rules, unless the context otherwise requires, a reference
- (a) to a numbered rule or Schedule is to the rule in or Schedule to these rules bearing that number;
 - (b) in a rule or Schedule to a numbered paragraph is to the paragraph in that rule or Schedule bearing that number;
 - (c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter.

Times and places of meetings of the committees

3. The provisions of Schedule 1 shall have effect as to the times and places of meetings of the Preliminary Proceedings Committee and of the Professional Conduct Committee, and the mode of summoning members.

PART II

INITIAL CONSIDERATION OF CASES

Appointment of member to conduct initial consideration of cases

4.—(1) No case shall be considered by the Preliminary Proceedings Committee unless it has first been considered

- (a) by a member of the Council appointed under this rule, or
- (b) by a member of the Council appointed under rule 5(2) or (3) of the Health Committee (Procedure) Rules, or exercising the President's powers or functions under rule 5(4) of those Rules,

and referred by such member to the Committee.

(3) If the President proposes to sit either on the Professional Conduct Committee or on the Health Committee, or if for any other reason the President does not wish to undertake the initial consideration of cases under these Rules, the President shall then nominate some other member of the Council whom the Council shall appoint under this rule, and references in these Rules to the President shall be construed as including references to such member.

(4) The President may nominate members of the Council whom the Council shall appoint to undertake the initial consideration of cases under these Rules in relation to which the member nominated and appointed under paragraph (3) is for any reason unable to act.

(5) Without prejudice to the generality of the foregoing, if at any time the President is absent or unable to act, anything authorised or required by these Rules to be done by the President may be done by any other member of the Council authorised in that behalf by the President or (if the President be unable to give authority) authorised by the Council or by the Preliminary Proceedings Committee on behalf of the Council.

Allegations as to conviction

5.—(1) Where information in writing is received by the Registrar from which it appears to him that a practitioner has been convicted in the British Islands of a criminal offence, and the conviction is not of a description excepted from the operation of this rule by or under a direction of the Preliminary Proceedings Committee, the Registrar shall write to the practitioner:—

- (a) notifying him of the receipt of the information;
- (b) informing the practitioner of the date of the next meeting of the Preliminary Proceedings Committee; and
- (c) inviting the practitioner to submit any observations which he may wish to offer.

(2) The Registrar shall submit to the President every case in which information of a conviction is received together with any observations received from the practitioner.

Allegations as to professional misconduct

6.—(1) Where a complaint in writing or information in writing is received by the Registrar and it appears to him that a question arises whether conduct of a practitioner constitutes serious professional misconduct the Registrar shall submit the matter to the President.

(2) Unless the complaint or information has been received from a person acting in a public capacity the matter shall not proceed further unless and until there has been furnished to the satisfaction of the President one or more statutory declarations or affidavits in support thereof; and every such statutory declaration or affidavit shall state the address and description of the deponent

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and the grounds for his belief in the truth of any fact therein which is not within his personal knowledge.

(3) Unless it appears to the President that the matter need not proceed further he shall direct the Registrar to write to the practitioner

- (a) notifying him of the receipt of a complaint or information and stating the matters which appear to raise a question whether the practitioner has committed serious professional misconduct;
- (b) forwarding a copy of any statutory declaration or affidavit furnished under paragraph (2);
- (c) informing the practitioner of the date of the next meeting of the Preliminary Proceedings Committee to which the case may be referred; and
- (d) inviting the practitioner to submit any explanation which he may have to offer.

Furnishing evidence of fitness to practise

7. If in a case (whether relating to conviction or conduct) it appears to the President that the fitness to practise of the practitioner may be seriously impaired by reason of a physical or mental condition the President shall also direct the Registrar to inform the practitioner accordingly and to invite him to furnish medical evidence of his fitness to practise for consideration by the Preliminary Proceedings Committee:

Provided that nothing in these Rules shall prevent the President in such a case from remitting it to the person appointed under rule 5 of the Health Committee (Procedure) Rules for action under those Rules, or, if he is himself that person, from initiating action under those Rules, as an alternative to referring the case to the Preliminary Proceedings Committee.

Invitation to practitioner to appear before the Preliminary Proceedings Committee in certain circumstances

8. If in any case (whether relating to conviction or conduct) it appears to the President that the circumstances are such that the Preliminary Proceedings Committee may wish to make an order for interim suspension or for interim conditional registration under section 42(3) of the Act, the President shall direct the Registrar to notify the practitioner accordingly and to inquire whether he wishes to appear before the Preliminary Proceedings Committee and be heard on the question whether such an order should be made in his case, and to inform the practitioner that for this purpose he may be represented before the Committee as provided in rule 53(2).

Duty to supply rules

9. The Registrar shall send a copy of these rules with any letter sent for the purpose of rule 5(1), 6(3), or 8.

Reference to Preliminary Proceedings Committee

10.—(1) Subject to the foregoing rules every case relating to conviction which is not of a description excepted from the operation of this rule by or under a direction of the Preliminary Proceedings Committee shall be referred to that Committee, together with any observations or evidence furnished by the practitioner under rule 5 or 7.

(2) Subject to the foregoing rules and to paragraph (4) the President may direct the Registrar to refer any case relating to conduct to the Preliminary Proceedings Committee together with any statutory declaration or affidavit, information, explanation or other evidence furnished under rule 6 or 7.

(3) No case relating to conduct shall be so referred for consideration at any meeting of the Preliminary Proceedings Committee without the consent of the practitioner unless the letter required by rule 6(3) was despatched at least 28 days before the date of that meeting.

(4) If in any case relating to conduct the President decides not to refer the case to the Preliminary Proceedings Committee under paragraph (2), a complainant, informant or practitioner shall be notified of that decision but

- (a) shall have no right of access to any document relating to the case submitted to the Council by any other person; and
- (b) if the President so directs, shall not be entitled to a statement of the reasons for the President's decision.

PART III

PROCEDURE OF THE PRELIMINARY PROCEEDINGS COMMITTEE

Determination by Preliminary Proceedings Committee

11.—(1) The Committee shall consider any case referred to them under rule 10 or under the provisions of the Health Committee (Procedure) Rules and, subject to those rules, determine:

- (a) that the case shall be referred to the Professional Conduct Committee for inquiry, or
- (b) that the case shall be referred to the Health Committee for inquiry, or
- (c) that the case shall not be referred to either Committee.

(2) When referring a case to the Professional Conduct Committee the Preliminary Proceedings Committee shall indicate the convictions, or the matters which in their opinion appear to raise a question whether the practitioner has committed serious professional misconduct, to be so referred and to form the basis of the charge or charges:

Provided that where the Committee refer any case relating to conduct to the Professional Conduct Committee and the Solicitor (or the complainant) later adduces grounds for further allegations of serious professional misconduct of a similar kind, such further allegations may be included in the charge or charges in the case, or the evidence of such grounds for further allegations may be introduced at the inquiry in support of that charge or those charges, notwithstanding that such allegations have not been referred to the Committee or formed part of the subject of a determination by the Committee.

(3) Before referring a case to the Health Committee the Committee may direct the Registrar to invite the practitioner to submit to examination by one or more medical examiners, to be chosen by the President from among those nominated under Schedule 2 to the Health Committee (Procedure) Rules, and, if the practitioner so elects, by another medical practitioner nominated by him, and to agree that such examiners should furnish to the Council reports on the practitioner's fitness to practise, either generally or on a limited basis, with recommendations for the management of his case. If the Committee consider that the information before them is sufficient to justify reference to the Health Committee, but that the Health Committee would be assisted by such reports, they may refer the case forthwith but invite the practitioner to submit to examination as aforesaid before the case is considered by the Health Committee.

(4) When referring a case to the Health Committee the Committee shall indicate the nature of the alleged condition by reason of which it appears to them that the fitness to practise of the practitioner may be seriously impaired.

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(5) If the Committee decide not to refer a case to the Professional Conduct Committee or to the Health Committee, the Registrar shall inform the practitioner and the complainant (if any) of the decision in such terms as the Committee may direct.

Order for interim suspension or interim conditional registration

12.—(1) If the Committee decide that a case ought to be referred for inquiry either to the Professional Conduct Committee or to the Health Committee they may, in accordance with section 42(3) to (6) of the Act, proceed as provided in the following paragraphs of this rule.

(a) (2) (a) If the Committee are satisfied that to do so is necessary for the protection of members of the public, they may make an order that the practitioner's registration be suspended for such period not exceeding two months as they may specify in the order.

(b) If the Committee are satisfied that to do so is necessary for the protection of members of the public or is in the interests of the practitioner, they may order that the registration of the practitioner shall be conditional on his compliance with such requirements and during such period, not exceeding two months, as they may specify in the order.

(3) No order may be made under this rule unless the practitioner has been afforded an opportunity of appearing before the Preliminary Proceedings Committee and being heard on the question whether such an order should be made in his case; and for this purpose the practitioner may be represented before the Committee as provided in rule 53(2) and may also be accompanied by his medical adviser:

Provided that, if the practitioner does not appear and the Registrar satisfies the Committee that the requirements of rule 54 have been met, the Committee may make an order under this rule if they think fit, notwithstanding the practitioner's failure to appear.

(4) Any decision by the Committee that a case should be referred for inquiry by the Professional Conduct Committee or by the Health Committee and any order by the Committee for a suspension or for conditional registration shall be notified to the practitioner by the Registrar in accordance with the requirements of rule 54.

Further investigations and provisional determination

13.—(1) Before coming to a determination under rule 11(1) the Committee may if they think fit cause to be made such further investigations, or obtain such advice or assistance from the Solicitor, as they may consider requisite.

(2) Where the Committee are of opinion that further investigations are desirable, or where at the time when the Committee are considering a case no explanation or observations have yet been received from the practitioner, they may if they think fit make a provisional determination that the case shall be referred to the Professional Conduct Committee or to the Health Committee and where they make such a determination—

(a) the President may, after consulting the Committee, and if the Committee so agree, direct either that no reference shall be made or that the Committee's determination shall become absolute;

(b) if the President directs that no reference shall be made, the Registrar shall notify the members of the Preliminary Proceedings Committee, and shall inform the practitioner and the complainant (if any) in such terms respectively as the President may direct.

Fresh allegation as to conviction or conduct

14. Notwithstanding anything in the foregoing rules, where

(a) in any case relating to conviction the Committee determine that no inquiry shall be held; or

(b) in any case relating to conduct

- (i) the President decides that no reference to the Committee need be made; or
 - (ii) the Committee determine that no reference for inquiry shall be made,
- and the Registrar, in a case falling under (a) above, at any time subsequently receives information that the practitioner has again been convicted or, in a case falling under (b) above, within two years of the decision or determination receives information or a complaint as to the conduct of the practitioner, the President may direct that the original conviction, information or complaint be referred, or referred again, to the Committee, together with the subsequent conviction, information or complaint, as the case may be, and the original decision or determination referred to in (a) or (b) above shall be disregarded.

Preliminary Proceedings Committee to meet in private

15. The Committee shall meet in private.

Non-disclosure of documents or reasons in cases not referred for inquiry

16. Where the Committee have decided not to refer a case for inquiry no complainant, informant or practitioner shall have any right of access to any documents relating to the case submitted to the Council by any other person, nor shall the Committee be required by a complainant, informant, or practitioner to state reasons for their decision.

PART IV

INTERMEDIATE PROCEDURES WHERE A CASE IS REFERRED TO THE PROFESSIONAL CONDUCT COMMITTEE

Notice of Inquiry

17.—(1) As soon as may be after a case has been referred to the Committee for inquiry, the Solicitor shall send to the practitioner in compliance with rule 54 a notice, in these rules called a “Notice of Inquiry”, which shall:

- (a) specify, in the form of a charge or charges, the matters into which the inquiry is to be held, and
 - (b) state the day, time and place at which the inquiry is proposed to be held.
- (2) In a case relating to conduct, the charge shall include a statement which identifies the alleged facts upon which the charge is based.
- (3) Except with the agreement of the practitioner, the inquiry shall not be fixed for any date earlier than twenty-eight days after the date of posting the Notice of Inquiry.
- (4) A Notice of Inquiry shall be in the form set out in Schedule 2, with such variations as circumstances may require.
- (5) In any case where there is a complainant, a copy of the Notice of Inquiry shall be sent to him.

Postponement of inquiry

18.—(1) The President may if he thinks fit postpone the holding of an inquiry to such later date or such later meeting of the Committee as he may determine.

(2) The Solicitor shall, as soon as may be, give to all parties to whom a Notice of Inquiry has been sent notification of any decision to postpone an inquiry, and shall inform them at that time or subsequently of the date fixed for the hearing of the postponed inquiry.

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Cancellation of inquiry

19.—(1) Where, after a complaint or information has been referred to the Committee for inquiry, it appears to the President that the inquiry should not be held, he may after consulting the Preliminary Proceedings Committee, and if that Committee so agree, direct that the inquiry shall not be held; and if at the time the President so directs no Notice of Inquiry has been sent, rule 17 shall not have effect: Provided that in any case where there is a complainant the President shall, before he consults the Preliminary Proceedings Committee as aforesaid, communicate or endeavour to communicate with the complainant with a view to obtaining the observations of the complainant as to whether the inquiry should be held.

(2) For the purpose of consultation under paragraph (1) the Preliminary Proceedings Committee shall not be required to meet.

(3) As soon as may be after the giving of any such direction the Solicitor shall give notice thereof to the practitioner and to the complainant (if any).

Access to documents

20. Without prejudice to rule 16 the Solicitor (or the complainant as the case may be) shall on the request of any party to an inquiry and on payment of the proper charges send to him copies of any statutory declaration, affidavit, explanation, answer, admission or other statement or communication sent to the Council by a party to the inquiry or any statement in writing in the possession of the Solicitor or the complainant made by a person who may be called by the Solicitor or the complainant to give evidence at the inquiry, other than medical evidence of fitness to practise furnished in response to an invitation under rule 7 or a confidential communication sent to the Council in response to applications under rules 38(1)(a)(iii) or rule 49(1):

Provided that nothing in this rule shall compel the Solicitor to produce copies of any written advice or other document or communication sent by himself to the Council.

Notice to produce documents

21. Any party to any inquiry may at any time give to any other party notice to produce any document relevant to the inquiry alleged to be in the possession of that party.

Amendment of charge before the opening of an inquiry

22.—(1) Where before a hearing by the Committee it appears to the President that a charge should be amended, including such amendment as contemplated under the proviso to rule 11(2), the President shall give such directions for the amendment of the charge as he may think necessary to meet the circumstances of the case unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) Where in the opinion of the President it is expedient, in consequence of the exercise by him of the powers conferred by paragraph (1), that the inquiry should be postponed, the President shall give such directions in that behalf as appear necessary.

(3) The Solicitor shall as soon as may be give notice in writing to the practitioner and to the complainant (if any) of any exercise by the President of his powers under either paragraph (1) or (2).

PART V

PROCEDURE OF THE PROFESSIONAL CONDUCT COMMITTEE AT THE ORIGINAL HEARING OF ANY CASE

Procedure where the practitioner does not appear

23.—(1) Where the practitioner does not appear and is not represented, the Committee may nevertheless proceed with the inquiry if the Solicitor satisfies them that all reasonable efforts have been made in compliance with rule 54 to serve the Notice of Inquiry on the Practitioner.

(2) If the Committee are so satisfied they may, if they think fit, proceed and the following provisions of these Rules shall not apply:

rule 24(2) and (3);

rule 25(1)(c), (d), (e), (f) and (g);

rule 26(2);

rule 27(1)(a), (e), (f), (g), (h), (i) and (j); and

rule 28(2).

Opening of inquiry — Reading of charge, submission of objections and amendment of charge

24.—(1) The inquiry shall open by the reading of the charge or charges to the Committee.

(2) After the reading of the charge or charges the practitioner may submit any objection on grounds of law to any charge or part of a charge and any other party may reply to such an objection.

(3) If any objection raised under paragraph (2) is upheld no further proceedings shall be taken with regard to the charge or part of a charge to which that objection relates.

(4) Where at any stage of an inquiry it appears to the Committee that a charge should be amended, the Committee may, after hearing the parties and consulting the legal assessor, if they are satisfied that no injustice would be caused, make such amendments to the charge as appear necessary or desirable.

Cases relating to conviction

25.—(1) In cases relating to conviction, the following order of proceedings shall be observed as respects proof of convictions alleged in the charge or charges:—

(a) The Solicitor shall adduce evidence of the convictions.

(b) If, as respects any conviction, no evidence is so adduced, the Chairman of the Committee shall announce that the conviction has not been proved.

(c) The Chairman shall ask the practitioner whether he admits each conviction of which evidence is so adduced and, in respect of any conviction so admitted by the practitioner, the Chairman shall announce that the conviction has been proved.

(d) The practitioner may then, in respect of the convictions not admitted, address the Committee and may adduce evidence, oral or documentary, including his own, in his defence.

(e) At the close of the evidence for the practitioner, the Solicitor may, with the leave of the Committee, adduce evidence to rebut any evidence adduced by the practitioner.

(f) The Solicitor may then address the Committee.

(g) The practitioner may then address the Committee.

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(2) On the conclusion of the proceedings under paragraph (1), the Committee shall consider every conviction alleged in the charge or charges, other than any conviction admitted by the practitioner or which the Chairman has announced has not been proved, and shall determine whether it has been proved; and the Chairman of the Committee shall announce their determination.

Circumstances, character, history and pleas in mitigation in case relating to conviction

26.—(1) Where the Committee have found that a conviction has been proved the Chairman shall invite the Solicitor to address the Committee, and to adduce evidence, as to the circumstances leading up to the conviction and as to the character and previous history of the practitioner.

(2) The Chairman shall then invite the practitioner to address the Committee by way of mitigation and to adduce evidence as aforesaid.

(3) The Committee shall then proceed in accordance with rules 30 and 31.

Cases relating to conduct

27.—(1) In cases relating to conduct, the following order of proceedings shall be observed as respects proof of the facts alleged in the charge or charges:—

- (a) The Chairman shall ask the practitioner whether he admits any or all of the facts alleged in the charge or charges and, in respect of any facts so admitted by the practitioner, the Committee shall record a finding that such facts have been proved and the Chairman shall so announce. Where all the facts are admitted the remainder of this rule other than subparagraphs (e) and (f) of this paragraph, shall not apply.
- (b) Where none, or some only, of the facts are admitted the Solicitor, or the complainant if any, shall open the case against the practitioner and present the facts alleged on which the charge or charges is or are based.
- (c) The Solicitor, or the complainant, as the case may be, may adduce evidence of the facts alleged which have not been admitted by the practitioner.
- (d) If as respects any charge no evidence is so adduced, the Committee shall record and the Chairman shall announce a finding that the practitioner is not guilty of serious professional misconduct in respect of the matter to which that charge relates.
- (e) At the close of the case against him the practitioner may make either or both of the following submissions, namely:—
 - (i) in respect of any or all of the facts alleged and not admitted in the charge or charges, that no sufficient evidence has been adduced upon which the Committee could find those facts proved;
 - (ii) in respect of any charge, that the facts of which evidence has been adduced or which have been admitted are insufficient to support a finding of serious professional misconduct;and where any such submission is made, the Solicitor or the complainant, as the case may be, may answer the submission and the practitioner may reply thereto.
- (f) If a submission is made under the last foregoing paragraph, the Committee shall consider and determine whether the submission should be upheld; and if the Committee determine to uphold such a submission as respects any charge, they shall record, and the Chairman shall announce, a finding that the practitioner is not guilty of serious professional misconduct in respect of the matters to which the charge relates.
- (g) The practitioner may then address the Committee concerning any charge which remains outstanding and may adduce evidence, oral or documentary, including his own, in his defence.

- (h) At the close of the evidence for the practitioner, the Solicitor or the complainant, as the case may be, may, with the leave of the Committee, adduce evidence to rebut any evidence adduced by the practitioner.
 - (i) The Solicitor, or the complainant, as the case may be, may then address the Committee.
 - (j) The practitioner may then address the Committee.
- (2) On the conclusion of proceedings under paragraph (1) the Committee shall consider and determine:
- (i) which, if any, of the remaining facts alleged in the charge and not admitted by the practitioner have been proved to their satisfaction, and
 - (ii) whether such facts have been so found proved or admitted would be insufficient to support a finding of serious professional misconduct, and shall record their finding.
- (3) The Chairman shall announce that finding and, if as respects any charge the Committee have found that none of the facts alleged in the charge have been proved to their satisfaction, or that such facts as have been so proved would be insufficient to support a finding of serious professional misconduct, the Committee shall record and the Chairman shall announce a finding that the practitioner is not guilty of serious professional misconduct in respect of the matters to which that charge relates.

Circumstances, character, history and pleas in mitigation in cases relating to conduct

28.—(1) Where, in proceedings under rule 27, the Committee have recorded a finding, whether on the admission of the practitioner or because the evidence adduced has satisfied them to that effect, that the facts, or some of the facts, alleged in any charge have been proved, the Chairman shall invite the Solicitor or the complainant, as the case may be, to address the Committee as to the circumstances leading to those facts, the extent to which such facts are indicative of serious professional misconduct on the part of the practitioner, and as to the character and previous history of the practitioner. The Solicitor or the complainant may adduce oral or documentary evidence to support an address under this rule.

(2) The Chairman shall then invite the practitioner to address the Committee by way of mitigation and to adduce evidence as aforesaid.

Finding of serious professional misconduct

29.—(1) The Committee shall then consider and determine whether, in relation to the facts proved in proceedings under rule 27, and having regard to any evidence adduced and arguments or pleas address to them under rule 28, they find the practitioner to have been guilty of serious professional misconduct. They shall record, and the Chairman shall announce, their finding.

(2) If the Committee determine that the practitioner has not been guilty of such misconduct, they shall record, and the Chairman shall announce, a finding to that effect.

Determination whether to make a direction

30.—(1) Where in any case the Committee have found a conviction proved or have judged that a practitioner has been guilty of serious professional misconduct they may, if they think fit, postpone their determination whether to make a direction until such future date or meeting of the Committee as they may specify, in order to obtain and consider further evidence of the conduct of the practitioner. If they so decide, the Chairman shall announce that decision.

(2) If the Committee decide that no such postponement is necessary, they shall consider and determine whether it shall be sufficient to make no direction and conclude the case and, if they so determine, the Chairman shall, subject to the provisions of rule 34, announce that determination.

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Directions of the Committee

31.—(1) If the Committee determine neither to postpone their determination under rule 30(1) nor that it shall be sufficient to conclude the case under rule 30(2), they shall proceed to make a direction in accordance with the following provisions of this rule.

- (a) (2) (a) The Committee shall first consider and determine whether it shall be sufficient to direct that the registration of the practitioner shall be conditional on his compliance, during such period not exceeding three years as the Committee may specify, with such requirements as the Committee may think fit to impose for the protection of members of the public or in his interests.
- (b) If the Committee so determine they shall then consider and decide the nature and duration of the conditions to be imposed, and shall so direct.

(3) If the Committee determine that it will not be sufficient to impose conditions on the practitioner's registration they shall next consider and determine whether it shall be sufficient to direct that the practitioner's registration shall be suspended; and, if they so decide, they shall direct that such suspension should be for such period, not exceeding twelve months, as they may specify in the direction.

(4) If the Committee determine that it will not be sufficient to direct suspension in accordance with paragraph (3), they shall thereupon direct that the name of the practitioner shall be erased from the Register.

(5) In any case where the Committee have determined that the registration of any practitioner shall be suspended or be subject to conditions for a specified period, they may, when announcing the direction to give effect to such determination, intimate that they will, at a meeting to be held before the end of such period, resume consideration of the case with a view to determining whether or not they should then direct that the period of suspension or of conditional registration should be extended or the conditions varied or that the name of the practitioner should be erased from the Register.

Order for immediate suspension of registration

32. If in any case the Committee determine to suspend the registration of a practitioner or to erase his name from the Register, the Committee shall then also consider and determine whether it is necessary for the protection of members of the public or would be in the best interests of the practitioner to order that his registration shall be suspended forthwith.

Revocation of order for interim suspension or interim conditional registration

33. If in any case an order has been made by the Preliminary Proceedings Committee under rule 12 for interim suspension or for interim conditional registration the Professional Conduct Committee may, if they think fit, revoke such order.

Announcement of findings, direction, etc. of Committee

34. The Chairman shall announce any finding, determination, direction, or revocation of the Committee under these rules in such terms as the Committee may approve and, where the announcement is one that a conviction has been proved or that the practitioner has been judged guilty of series professional misconduct but the Committee do not propose to make any direction, may, without prejudice to the terms in which any other announcement may be made, include any expression of the Committee's admonition in respect of the practitioner's behaviour giving rise to the charge or charges in question.

Cases relating both to conviction and to conduct

35. Where in the case of any inquiry it is alleged against the practitioner both that he has been convicted and that he has been guilty of serious professional misconduct, the following shall be the procedure:—

- (a) The Committee shall first proceed with every charge that the practitioner has been convicted until they have completed the proceedings required by rule 25.
- (b) The Committee shall then proceed with every charge that the practitioner has been guilty of such conduct as aforesaid until they have completed the proceedings required by rule 27.
- (c) The Committee shall then take any proceedings required by any of rules 26 and 28 to 33.

Inquiries into charges against two or more practitioners

36. Nothing in these rules shall be construed as preventing one inquiry being held into charges against two or more practitioners; and where such an inquiry is held the foregoing rules shall apply with the necessary adaptations and subject to any directions given by the Committee as to the order in which proceedings shall be taken under any of those rules in relation to the several practitioners.

PART VI

RESUMED HEARINGS BY THE PROFESSIONAL CONDUCT COMMITTEE

Direction for resumed hearing

37.—(1) In any case where the Committee have determined that the registration of a practitioner shall be suspended or be subject to conditions for a specified period, and have given no intimation, under rule 31(5), and, as a consequence of the receipt during the said specified period of information as to the conduct or a conviction of the practitioner since the date of the direction to give effect to the determination, it appears to the President that the Committee should consider whether or not the period of suspension or conditional registration should be extended or the conditions varied or revoked or the name of the practitioner erased from the Register, he shall direct the Solicitor to notify the practitioner that the Committee will resume consideration of the case at such meeting as the President shall specify.

(2) Where, in any case, the Committee have—

- (a) decided to postpone their determination under rule 30 for a specified period or to a specified meeting, or
- (b) directed that the practitioner's registration should be subject to conditions and intimated that they will resume consideration of the case at a specified meeting or date, or
- (c) suspended the practitioner's registration and intimated that they will resume consideration of the case at a specified meeting or date,

and it subsequently appears to the President, in consequence of the receipt of information to the credit or discredit of the practitioner in relation to his conduct since the original hearing, or for some other reason, that the Committee should resume consideration of the case at an earlier meeting or date than that originally specified, the President may direct the Solicitor to notify the practitioner that the Committee will resume consideration of the case at such meeting or date as the President shall specify.

(3) Without prejudice to the generality of paragraphs (1) and (2), wherein any case the Committee have imposed conditions upon a practitioner's registration, and it appears to the President from information subsequently received that the practitioner is not complying with such conditions, then, whether or not the conditions imposed by the Committee required the practitioner to reappear before

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them at a future date or meeting, the President may direct the Solicitor to notify the practitioner that the Committee will resume consideration of the case at such meeting as the President shall specify.

(4) In any case in which the President has given a direction under paragraphs (1) to (3) the Committee shall then resume consideration of the case on the date or at the meeting specified in the direction notwithstanding their earlier decision.

Notice of resumed hearing

38.—(1) Where the Committee are to resume a previous hearing in circumstances specified in paragraph (2)—

- (a) the Solicitor shall, not later than six weeks before the day fixed for the resumption of the proceedings, send to the practitioner in compliance with rule 54 a Notice which shall—
 - (i) specify the day, time and place at which the proceedings are to be resumed and invite him to appear thereat;
 - (ii) in any case where the President has exercised his powers under rule 37(1) to (3) state the nature of the information in consequence of which he has exercised his powers;
 - (iii) if the Committee have so directed, invite the practitioner to furnish the Registrar with the names and addresses of professional colleagues and other persons of standing to whom the Council will be able to apply for confidential information as to their knowledge of his conduct since the time of the original inquiry;
- (b) in any case where there is a complainant a copy of the Notice shall be sent to him.

(2) The circumstances to which paragraph (1) applies shall be:

- (i) where under any of the foregoing provisions of these Rules the determination of the Committee in any case stands postponed; or
- (ii) where the Committee have directed that the registration of a practitioner shall be conditional or shall be suspended, and have intimated that before the end of the period of conditional registration or suspension they will resume consideration of the case; or
- (iii) where the President has so directed under rule 37(1) to (3); or
- (iv) where, following reference of a case to the Health Committee, the Health Committee certify to the Committee under rule 51(3), their opinion that the fitness to practise of the practitioner is not seriously impaired by reason of his condition.

New charge at resumed hearing

39.—(1) If, since the original hearing, a new charge or charges against the practitioner have been referred to the Committee, the Committee shall first proceed with such new charge or charges in accordance with the provisions of rule 24 and rule 25 or 27, as the case may be.

(2) The Committee shall take any proceedings required by rule 26 or rules 28 and 29, as the case may be, in relation to such new charge or charges, concurrently with the proceedings prescribed in rule 40 and shall have regard to their findings in relation to such charge or charges in making any direction in accordance with rules 41 to 43.

Procedure at resumed hearing

40.—(1) Subject to the provisions of rule 39, at the meeting at which the proceedings are resumed, the Chairman of the Committee shall first invite the Solicitor to recall, for the information of the Committee, the position in which the case stands.

(2) If in any case the President has exercised his powers under rule 37, the Solicitor shall adduce evidence of the conduct or conviction of the practitioner which led to the exercise of those powers.

- (3) The Committee may—
 - (a) hear any other party to the proceedings,
 - (b) receive such further oral or documentary evidence in relation to the case, or as to the conduct of the practitioner since the previous hearing, as they think fit; and nothing herein contained shall be construed as preventing the receipt by the Committee of evidence as to any conviction, not being a conviction which is the subject of a charge before the Committee.
- (4) The Committee shall then proceed in accordance with the following rules, as the circumstances of the case may so require.

Procedure following postponement under rule 30

41.—(1) If at the previous hearing the Committee, under rule 30, postponed their determination whether to make a direction to enable further evidence to be considered, they shall next consider and decide whether they should further postpone their determination; if they so decide, they may direct such further postponement until such future date or meeting of the Committee as they may specify.

(2) If the Committee decide that they should not further postpone their determination they shall proceed to consider and determine whether it shall be sufficient to make no direction and conclude the case.

(3) If the Committee determine that it shall not be sufficient to conclude the case, they shall proceed to make a direction in accordance with the provisions of paragraphs (2) to (4) of rule 31.

Procedure where conditional registration had been imposed

42.—(1) If at the previous hearing the Committee had directed that the registration of the practitioner should be subject to conditions, the Committee shall first judge whether the practitioner has failed to comply with any of the requirements imposed on him as conditions of his registration.

- (a) (2) (a) If the Committee judge that the practitioner has not so failed to comply they shall then consider and determine whether:
 - (i) to revoke the direction made at the previous hearing, that the registration of the practitioner be subject to conditions (in which case they shall so direct); or
 - (ii) to vary the conditions imposed under the direction made at the previous hearing (in which case they shall so direct); or
 - (iii) to make no further direction, and allow the case to conclude on the expiry of the period for which the direction made at the previous hearing applies.
- (b) If the Committee determine not to revoke the direction or vary the condition or conditions imposed at the previous hearing, or to allow the case to conclude as aforesaid, they shall proceed to impose a further period of conditional registration and shall consider and decide the nature of the conditions and the further period, not exceeding twelve months, for which they shall apply, and shall so direct.
- (a) (3) (a) If the Committee judge that the practitioner has so failed to comply, they shall next consider and determine whether it shall be sufficient:
 - (i) to vary the conditions imposed under the direction made at the previous hearing; or, if not,
 - (ii) to direct that the current period of conditional registration shall be extended for such further period not exceeding twelve months as they may specify, with or without variation of the conditions imposed under the direction made at the previous hearing; or, if not,

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- (iii) to direct that the registration of the practitioner shall be suspended for such period not exceeding twelve months as they may specify and, if they determine that one of the foregoing courses of action shall be sufficient, they shall so direct.
- (b) If the Committee determine that none of the courses of action under sub-paragraph (a) shall be sufficient, they shall thereupon direct that the name of the practitioner shall be erased from the Register.

Procedure where registration has been suspended

43.—(1) Where at a previous hearing the Committee directed that the practitioner's registration should be suspended, the Committee shall consider and determine whether it shall be sufficient:

- (a) to make no further direction; or, if not,
 - (b) to direct the registration of the practitioner shall be conditional on his compliance during such period not exceeding three years as the Committee may specify, with such requirements as the Committee may think fit to impose for the protection of members of the public or in his interests (in which case the Committee shall then consider and decide the nature and duration of the conditions to be imposed); or, if not,
 - (c) to direct that the current period of suspension shall be extended for such further period, not exceeding twelve months, from the time when it would otherwise expire as they may specify.
- (2) If the Committee determine that it shall not be sufficient to adopt a course under paragraph (1) (a), (b) or (c) they shall direct that the name of the practitioner shall be erased from the Register.
- (3) If the Committee determine to pursue a course under paragraph (1)(b), or (c) or paragraph (2) they shall make a direction to that effect.

Announcement of determination at resumed hearing

44. The Chairman shall announce the determination or determinations of the Committee under the foregoing rules in such terms as the Committee may approve.

Subsequent application of rules where case is continued

45. The provisions of rules 37 and 39 to 44 shall also apply in any case where the determination of the Committee has been further postponed at a resumed hearing or in which the Committee have previously directed at a resumed hearing that a period of suspension or conditional registration should be extended or further extended.

PART VII

APPLICATIONS FOR RESTORATION AFTER ERASURE

Procedure for consideration of applications for restoration

46. Where a person applies for the restoration of his name to the Register under section 41 of the Act, the following provisions shall have effect:—

- (a) Subject to any direction given by the President in special circumstances, an application shall not be considered by the Committee at any meeting unless, not less than twenty-one days before the first day of that meeting, there has been delivered to the Registrar a statutory declaration made by the applicant as nearly as possible in the form set out in Schedule 3.

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- (b) At the hearing of the application, the Chairman shall first invite the Solicitor to recall the circumstances in which the applicant's name was erased from the Register and, if he so desires, to address the Committee and to adduce evidence as to the conduct of the applicant since that time.
- (c) The Chairman shall next invite the applicant to address the Committee and, if he so desires, to adduce evidence as to his conduct since his name was erased from the Register.
- (d) The Committee may, if they think fit, receive oral or written observations on the application from any body or person on whose complaint the applicant's name was erased from the Register.
- (e) The Committee may, if they think fit, adjourn consideration of any application to such future meeting as they may specify, and may require the applicant to submit evidence of his conduct since his name was erased from the Register.
- (f) Subject to the foregoing provisions of this rule the procedure of the Committee in connection with such applications shall be such as they may determine.

PART VIII

GENERAL

Adjournment of proceedings

47. The Preliminary Proceedings Committee and the Professional Conduct Committee may adjourn any of their proceedings or meetings from time to time as they think fit.

Exclusion of public from hearings in certain cases

48.—(1) Subject to the provisions of rule 50(5), and to the following paragraphs of this rule, all proceedings before the Professional Conduct Committee shall take place in the presence of all parties thereto who appear therein and shall be held in public.

- (a) (2) (a) If any party to any proceedings or any witness therein makes an application to the Committee for the public to be excluded from any proceedings or part thereof, then if it appears to the Committee that any person would suffer undue prejudice from a public hearing or that for any other reason the circumstances and nature of the case make a public hearing unnecessary or undesirable, the Committee may direct that the public shall be so excluded.
- (b) Where no such application has been made the Committee may of their own initiative direct that the public shall be excluded from any proceedings or part thereof if it appears to the Committee, after hearing the views of the parties thereon, that to do so would be in the interests of justice or desirable having regard to the nature either of the case or of the evidence to be given.
- (c) A direction under this paragraph shall not apply to the announcement in pursuance of any of these rules of a determination of the Committee.

(3) Subject to the provisions of paragraph 7 of Schedule 4 to the Act and of any rules made thereunder the Committee may deliberate in camera (with or without the legal assessor) at any time and for any purpose during or after the hearing of any proceedings.

Consideration of confidential reports at resumed hearings

49.—(1) Where, under rule 30 or rule 41, the Professional Conduct Committee postpone or further postpone their determination whether to make a direction or, under rule 31, rule 42 or rule 43,

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impose conditions upon a practitioner's registration or suspend the registration of a practitioner and give an intimation under rule 31(5), or the President determines under rule 37(1) to (3) that they will resume consideration of the case, or where the Committee adjourn consideration of an application under rule 46(e), the Committee may require the practitioner to furnish the Registrar with the names and addresses of professional colleagues and other persons of standing to whom the Council will be able to apply for information, to be given confidentially, as to their knowledge of his conduct since the time of the original or of any previous hearing.

(2) Where any practitioner or applicant has supplied to the Committee or to the Registrar on his behalf the name of any person to whom reference may be made confidentially as to his conduct, the Committee may consider any information received from such person in consequence of such reference without disclosing the same to the practitioner.

Evidence

50.—(1) The Professional Conduct Committee may receive oral, documentary or other evidence of any fact or matter which appears to them relevant to the inquiry into the case before them:

Provided that, where any fact or matter is tendered as evidence which would not be admissible as such if the proceedings were criminal proceedings in England, the Committee shall not receive it unless, after consultation with the legal assessor, they are satisfied that their duty of making due inquiry into the case before them makes its reception desirable.

(2) Without prejudice to the generality of the last preceding paragraph the Committee may, if satisfied that the interests of justice will not thereby be prejudiced, admit in evidence without strict proof copies of documents which are themselves admissible, maps, plans, photographs, certificates of conviction and sentence, certificates of registration of birth or marriage or death, the records (including the registers) of the Council, the notes of proceedings before the Committee and before other tribunals and the records of such tribunals, and the Committee may take note without strict proof of the professional qualifications, the registration, the address and the identity of the practitioner and of any other person.

(3) The Committee may accept admissions made by any party and may in such case dispense with proof of the matters admitted.

(4) The Committee may cause any person to be called as a witness in any proceedings before them, whether or not the parties consent thereto. Questions may be put to any witness by the Committee or by the legal assessor with the leave of the Chairman.

(5) Without leave of the Committee no person (other than a party to the proceedings) shall be called as a witness by either party in proceedings before the Professional Conduct Committee unless he has been excluded from the proceedings until he is called to give evidence:

Provided that this rule shall not prevent the Committee from receiving evidence relating to the posting, receipt or service of documents, the production of documents, and evidence in rebuttal of evidence given by or on behalf of the practitioner or as part of the case against him.

Reference and transfer of cases to the Health Committee

51.—(1) Notwithstanding any other provisions in these rules, where in the course of an inquiry, at either the original or a resumed hearing, it appears to the Professional Conduct Committee that a practitioner's fitness to practise may be seriously impaired by reason of his physical or mental condition, the Committee may refer that question to the Health Committee for determination, and any such referral may be made whether or not the Professional Conduct Committee order in accordance with powers conferred by the Act that the practitioner's registration shall be conditional on his compliance with specified requirements.

(2) When referring a case under this rule to the Health Committee the Professional Conduct Committee may also direct that, before the case is considered by the Health Committee, the practitioner shall be invited to submit to examination by one or more medical practitioners to be chosen by the President from among those nominated under Schedule 2 to the Health Committee (Procedure) Rules, and, if the practitioner so elects, by another medical practitioner nominated by him, and to agree that such examiners should furnish to the Council reports on the practitioner's fitness to practise, either generally or on a limited basis, with recommendations for the management of his case.

(3) If, following a reference under this rule, the Health Committee subsequently certify to the Professional Conduct Committee their opinion that the fitness of the practitioner to practise is not seriously impaired by reason of his physical or mental condition, rule 38 shall apply, and the Professional Conduct Committee shall resume their inquiry in the case and dispose of it.

(4) If, following a reference under this rule, the Health Committee certify to the Professional Conduct Committee their opinion that the fitness of the practitioner to practise is seriously impaired by reason of his physical or mental condition, the Professional Conduct Committee shall cease to exercise their functions in relation to the case.

Voting

52.—(1) The following provisions shall have effect as to the taking of the votes of the Preliminary Proceedings Committee and the Professional Conduct Committee on any question to be determined by them:—

- (a) The Chairman of the Committee shall call upon the members present to signify their votes by raising their hands, signify his own vote, and declare the way in which the question appears to him to have been determined.
- (b) If the result so declared by the Chairman is challenged by any member, the Chairman shall—
 - (i) call upon each member severally to declare his vote,
 - (ii) announce his own vote, and
 - (iii) announce the number of members of the Committee who have voted each way and the result of the vote.

(2) In proceedings of the Preliminary Proceedings Committee, or in consideration of cases by that Committee under rule 13 or rule 19, if the votes are equal, the President shall have an additional casting vote.

(3) In proceedings of the Professional Conduct Committee, if the votes are equal the question shall be deemed to have been resolved in favour of the practitioner. For the purpose of this paragraph a determination by the Professional Conduct Committee to postpone their determination whether to make a direction shall be taken to be in favour of a practitioner unless he has indicated to the Committee that he is opposed to such postponement.

Representation

53.—(1) Any party being a body corporate or an unincorporated body of persons may appear by their clerk or other officer duly appointed for the purpose or by counsel or solicitor.

(2) Any party being an individual may appear either in person or by counsel or solicitor, or by any officer or member of any professional organisation of which he is a member, or by any member of his family, and any reference to a practitioner, complainant or other party shall be construed as including a reference to any person by whom he is represented.

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Postal service of documents

- (a) **54.** (1) (a) A notice or communication authorised or required by rules 5 to 8, 12(3) and (4), 17, 18(2), 19(3), 37 and 38 to be served on a person by the Registrar or the Solicitor may be served on the person either by delivering it to him or by leaving it at his proper address or by sending it by registered post or by the recorded delivery service.
 - (b) For the purpose of this rule a person's proper address shall be his address in the Register or, if his last known address differs from his address in the Register and it appears to the Registrar or the Solicitor that a letter sent to him there is more likely to reach him, his last known address.
 - (c) For the purpose of this rule service of a notification effected by sending it by post shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post.
- (2) In all other circumstances, communications to be sent for the purposes of these rules may be sent by post.

Notes and transcript of proceedings

- 55.**—(1) A shorthand writer shall be appointed by the Professional Conduct Committee to take shorthand notes of their proceedings.
- (2) Any party to proceedings of the Committee shall, on application to the Solicitor and on payment of the proper charges, be furnished by the Solicitor with a transcript of the shorthand notes of any part of the proceedings at which the parties were entitled to be present.

Revocation

- 56.** The General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1980 are hereby revoked.