
EXPLANATORY NOTE

(This note is not part of the Order)

The Rules approved by this Order make provision for the procedures to be followed in relation to fitness to practise proceedings of the General Medical Council (“the GMC”).

Part 1 relates to the date the Rules are to come into force and to interpretation of them; Part 2 relates to the investigation of allegations; Part 3 to action following referral of cases to Fitness to Practise Panels (“FTP Panels”); Part 4 sets out the procedure before FTP Panels; Part 5 relates to review hearings; Part 6 relates to restoration hearings; Part 7 relates to interim orders and Part 8 contains general provisions.

Part 1—Preliminaries

Rule 1 provides for the Rules to come into force on 1st November 2004.

Rule 2 sets out the definitions of terms used in the Rules.

Rule 3 provides for the appointment of panels of assessors, examiners and advisers.

Part 2—Investigation of allegations

Rules 4 and 5 provide for an allegation concerning a medical practitioner’s fitness to practise to be initially considered by the Registrar of the GMC and for referral of an allegation by the Registrar to a FTP Panel or a medical and a lay Case Examiner for further investigation.

Rule 6 provides for the Registrar to refer an allegation to an Interim Orders Panel for consideration by that Panel of the making of an interim order under section 41A of the Medical Act 1983 (“the Act”).

Rule 7 provides for the Registrar to notify the medical practitioner of an allegation and for the further investigation of an allegation, including health and performance assessments in accordance with Schedule 1 or 2 of the Rules.

Rule 8 relates to the consideration of an allegation by the Case Examiners.

Rule 9 sets out the decisions that may be made by the Investigation Committee.

Rule 10 deals with undertakings following a health or performance assessment.

Rule 11 relates to warnings to a practitioner regarding his future conduct or performance and sets out the procedure to be followed before a warning can be given, including at an oral hearing.

Rule 12 provides for the President to review a decision not to refer a case to a FTP Panel, a decision to issue a warning or a decision to cease consideration of an allegation following the giving of an undertaking by a practitioner under rule 10.

Rule 13 sets out the relevant date for the purposes of sections 35A and 35B of the Act. Under section 35A(2) of the Act, the GMC is obliged as soon as reasonably practicable after the relevant date to require from the practitioner information regarding persons by whom the practitioner is employed or with whom he has arrangements to provide medical services. Under section 35B of the Act, the GMC is obliged as soon as practicable after the relevant date to notify the Secretary of State, Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales of the investigation by the GMC of a practitioner’s fitness to practise.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 3—Action following referral

Rule 14 provides for the appointment of specialist advisers by the Registrar to advise a FTP Panel during the course of a hearing before it.

Rule 15 provides for notice of hearing to be served on the practitioner informing him of the date, time and venue of the hearing, setting out the allegation, and, among other matters, informing the practitioner of his right to attend and be represented at the hearing and of the FTP Panel’s power to proceed in his absence. The rule also sets out the period of notice to be given to the practitioner before the hearing.

Rule 16 provides that the Registrar may appoint a legally qualified Case Manager and for the Case Manager to hold a case review at which he may make directions regarding the just, expeditious and effective running of proceedings before a FTP Panel.

Part 4—Procedure of a FTP Panel

Rule 17 sets out the procedure to be followed at hearings before a Fitness to Practise Panel.

Part 5—Review hearings

Rule 18 defines what a “review hearing” is.

Rule 19 sets out the functions of the Registrar prior to a review hearing and permits him to make inquiries and to invite the practitioner to undergo a health or performance assessment in accordance with Schedule 1 or 2 of the Rules.

Rule 20 provides for a notice to be given to the practitioner of a review hearing, which must include particulars of the direction previously made by a FTP Panel and invite the practitioner to submit representations if he does not wish to attend the hearing.

Rule 21 provides the Registrar to refer a case to a FTP Panel for an early review hearing where information is received that in the opinion of the Registrar would make an early review hearing desirable.

Rule 22 sets out the procedure at a review hearing.

Part 6—Restoration to the Register

Rule 23 sets out the procedure following an application for restoration under section 41 of the Act. Section 41 applies where a practitioner’s name has been erased from the register under section 35D of the Act following fitness to practise proceedings.

Rule 24 sets out the procedure to be followed at a restoration hearing.

Part 7—Interim orders

Rule 25 requires the Registrar to refer a case to an Interim Orders Panel for the purposes of section 41A(2) or (9) of the Act for a review of an interim order that has already been made. It also provides the Registrar with a discretion to refer a case to an Interim Orders Panel where new information is received by the GMC that suggests that an interim order ought to be reviewed.

Rule 26 provides for a notice of a hearing of an Interim Orders Panel to be served on the practitioner. The GMC must also serve on the practitioner any evidence which is relevant to the question whether an interim order ought to be made or reviewed.

Rule 27 sets out the procedure to be followed at a hearing of an Interim Orders Panel.

Part 8—General

Rule 28 provides for the cancellation of a hearing before a FTP Panel or Interim Orders Panel.

Rule 29 provides for the postponement and adjournment of a hearing before the Investigation Committee, a FTP Panel or an Interim Orders Panel.

Rule 30 provides for decisions of the Investigation Committee, a FTP Panel or an Interim Orders Panel regarding preliminary legal points to be binding in subsequent proceedings relating to the case unless the Committee or Panel hearing the case decides that the decision was wrong.

Rule 31 provides that a hearing may proceed before the Committee or Panel notwithstanding the absence of the practitioner if the Committee or Panel is satisfied that all reasonable efforts have been made to give notice of the hearing to the practitioner.

Rule 32 provides for the joinder of allegations against a practitioner or the joinder of allegations against two or more practitioners.

Rule 33 provides that a practitioner may be represented and accompanied at a hearing, but provides that a person who is to be called as a witness cannot represent or accompany the practitioner.

Rule 34 relates to the admission of evidence before the Investigation Committee, a FTP Panel or Interim Orders Panel.

Rule 35 contains provisions relating to the examination of witnesses.

Rule 36 sets out provisions relating to vulnerable witness and to the adoption by the Investigation Committee, a FTP Panel or an Interim Orders Panel of such measures as it considers necessary to enable it to receive evidence from a vulnerable witness including a witness under the age of 17 or a witness with a mental disorder. The rule also relates to cases where the allegation against a practitioner is sexual in nature, a witness is the alleged victim and the practitioner is acting in person.

Rule 37 provides for the secretary of the Investigation Committee, FTP Panel or Interim Orders Panel to record decisions of the Committee or Panel and for the publication of decisions (with the exception of confidential health information) and for the Registrar to be informed of decisions and the reasons for them.

Rule 38 provides for decisions of the hearings of the Investigation Committee, FTP Panels and Interim Orders Panels to be taken by simple majority and sets out other rules relating to the voting of members of the Investigation Committee and Panels.

Rule 39 provides for proceedings before the Investigation Committee, FTP Panels and Interim Orders Panels to be recorded and for parties, on application, to be furnished with a transcript.

Rule 40 relates to the method of service of documents.

Rule 41 relates to the attendance of members of the public at hearing before the Investigation Committee, FTP Panels and Interim Orders Panels.

Rule 42 allows the Committee or Panel to exclude from the hearing any person who is disrupting the proceedings.

Rule 43 makes various consequential amendments and rule 44 revokes a set of rules which are not repealed by virtue of the substitution of Schedule 4 of the Act by the Medical Act 1983 (Amendment) Order 2002.