STATUTORY INSTRUMENTS

1980 No. 858

MEDICAL PROFESSION

The General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules Order of Council 1980

Made - - - -	*23rd June* 1980
Laid before Parliament	*1st July* 1980
Coming into Operation	*1st August* 1980

At the Council Chamber, Whitehall, the 23rd day of June 1980

By the Lords of Her Majesty's Most Honourable Privy Council

Whereas in pursuance of paragraphs 1 and 5 of Schedule 4 to the Medical Act 1978(a) the General Medical Council have made the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1980:

And whereas by sub-paragraph (5) of the said paragraph 1 such Rules shall not come into force until approved by order of the Privy Council:

Now, therefore, Their Lordships, having taken the said Rules into consideration, are pleased to approve the same as set out in the Appendix to this Order.

This Order may be cited as the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules Order of Council 1980, and shall come into operation on 1st August 1980.

N. E. Leigh,
Clerk of the Privy Council.

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(a) 1978 c. 12.

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THE GENERAL MEDICAL COUNCIL PRELIMINARY PROCEEDINGS COMMITTEE AND PROFESSIONAL CONDUCT COMMITTEE (PROCEDURE) RULES 1980

The General Medical Council, in exercise of their powers under paragraphs 1 and 5 of Schedule 4 to the Medical Act 1978, 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:—

PRELIMINARY

Citation and commencement

1. These rules may be cited as the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1980, and shall come into operation on 1st August 1980.

Interpretation

2. In these rules, unless the context otherwise requires:

"the Act" means the Medical Act 1978;

"the Council" means the General Medical Council;

"the President" means the President of the Council and includes any other member appointed under rule 4;

"the Registrar" means the Registrar of the Council;

"the Legal Assessor" means an Assessor appointed by the Council under paragraph 7 of Schedule 4 to the Act;

"the Solicitor" means any Solicitor, or any firm of Solicitors, appointed by the Council or any member of such a firm;

"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;

"practitioner" means a person registered (in any way) under the Medical Acts, and references to the practitioner, in relation to any complaint, information or proceedings, are references to the practitioner against whom a conviction has been alleged, or whose conduct has been called into question, as the case may be;

"case relating to conviction" means a case where it is alleged that a practitioner has been convicted, whether while so registered or not, in the United Kingdom or any of the Channel Islands or the Isle of Man of a criminal offence;

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

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

"medical adviser" means in relation to a "practitioner" as defined in this rule, any other registered medical practitioner (but not more than one) whom the practitioner has consulted as a patient in regard to his own health and whom the practitioner elects to treat as his medical adviser for the purpose of proceedings under these rules;

"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 Regional Area or District Health Authority, Health Board, Common Services Agency or Board of Governors of a hospital, 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.

Times and places of meetings of the committees

3. The provisions of the First Schedule to these rules 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.

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 by the member of the Council appointed under this rule and referred by him to that Committee.

(2) Subject to the following paragraph, the Council shall appoint the President under this rule.

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

(4) Without prejudice to the generality of the foregoing paragraph, 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 Preliminary Proceedings Committee.

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 United Kingdom or any of the Channel Islands or the Isle of Man 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;

(*c*) inviting the practitioner to submit any observations which he may wish to offer.

(2) Subject to the foregoing paragraph, 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 in support thereof; and every such statutory declaration shall state the address and description of the declarant and the grounds for his belief in the truth of any fact declared 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 furnished under paragraph (2) of this rule;

(*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 (either of conviction or of 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 may 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 1980 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 (either of conviction or of 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 13(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 by counsel or solicitor or by an officer or member of any organisation of which he is a member or by any member of his family.

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 of 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 the President may direct the Registrar to refer any case of conduct to the Preliminary Proceedings Committee together with any statutory declaration, explanation or evidence furnished under rule 6 or 7.

(3) No case of 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.

PROCEDURE OF THE PRELIMINARY PROCEEDINGS COMMITTEE

Determination by Preliminary Proceedings Committee

11.—(1) Where a case has been referred to the Preliminary Proceedings Committee as aforesaid, that Committee shall consider the case and, subject to these rules, determine:—

(*a*) that the case 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.

(3) Before referring a case to the Health Committee the Preliminary Proceedings Committee may direct that the practitioner shall be invited to submit to examination by one or more medical practitioners to be selected by the President who are engaged in such branches of medicine as the Committee may specify and to examination also, if the practitioner so elects, by another medical practitioner selected by him. If the Preliminary Proceedings Committee think it desirable to adjourn their determination under rule 11(1) until they have had an opportunity to consider such reports, the provisions of rule 13 shall apply. If the Committee think 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 Preliminary Proceedings Committee shall indicate the physical or mental condition or conditions by reason of which it appears to them that the fitness to practise of the practitioner may be seriously impaired.

(5) If the Preliminary Proceedings 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 Preliminary Proceedings 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 13(3) to (6) of the Act, proceed as provided in the following paragraphs of this rule.

(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 a specified period not exceeding two months; or

(*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 make an order that the registration of the practitioner shall be conditional on his compliance, during such period not exceeding two months as the Committee may specify, with such requirements as the Committee think fit to impose for the protection of members of the public or in his interests.

(3)(*a*) 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 58(2) and may also be accompanied by his medical adviser.

(*b*) If the practitioner does not appear the Chairman of the Committee shall call upon the Registrar to satisfy the Committee that the notification required by rule 8 has been received by the practitioner. If it does not appear to have been so received, the Committee may nevertheless make an order under this rule if they think fit on being satisfied that all reasonable efforts were made to serve the notification on the practitioner.

(4) An order under this rule shall specify the period not exceeding two months for which the order is to have effect and an order for conditional registration shall specify the requirements with which the practitioner is to comply as a condition of his registration.

(5) Any decision by the Preliminary Proceedings 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 the manner required by section 13(5) of, and paragraph 8 of Schedule 4 to, the Act.

Further investigations and provisional determination

13.—(1) Before coming to a determination under rule 11(1) the Preliminary Proceedings 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 Preliminary Proceedings Committee are of opinion that such further investigations as aforesaid are desirable, or where at the time when that Committee are considering a case no explanation or observations have yet been received from the practitioner, the Preliminary Proceedings Committee 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 causing those members of the Preliminary Proceedings Committee who made such determination to be informed of the result of the further investigations or to be supplied with copies of any explanation or observations subsequently furnished by the practitioner, and after consultation with such members of that Committee, and in accordance with the opinions of those members or the majority of their opinions (including his own opinion), direct either that no inquiry shall be held or that the matter shall be referred as aforesaid;

(*b*) where the opinions of the members of the Preliminary Proceedings Committee are equally divided the question shall be deemed to have been resolved in favour of the practitioner, and the President shall direct that no inquiry shall be held;

(*c*) if the President directs that no inquiry shall be held, 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 in a case relating to conviction the Preliminary Proceedings Committee or the President has or have determined that no inquiry shall be held, and the Registrar subsequently receives information or a complaint as to another conviction or as to the conduct of the same practitioner, the President may direct that the former conviction or convictions shall again be referred to the Preliminary Proceedings Committee, together with the subsequent information or complaint as if no such determination had been made in respect of the former conviction or convictions.

Preliminary Proceedings Committee to meet in private

15. The Preliminary Proceedings Committee shall meet in private.

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

16. Where the Preliminary Proceedings 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.

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 Professional Conduct Committee for inquiry, the Solicitor shall send to the practitioner 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) 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.

(3) A Notice of Inquiry shall be in the form set out in the Second Schedule to these Rules, with such variations as circumstances may require.

(4) A Notice of Inquiry shall be delivered to the practitioner or sent by registered post or by the recorded delivery service to him at his address on the Register, and to his last known or any other address, if it appears to the Solicitor that a letter so addressed is more likely to reach him.

(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.

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 consultation with the members of the Preliminary Proceedings Committee who made the determination to hold the inquiry and in accordance with the opinion of those members or the majority of their opinions (including his own opinion) direct that the inquiry shall not be held; and where the President so directs and at the time of the direction 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 with members of 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) Where the opinions of the members of the Committee are equally divided the question shall be deemed to have been resolved in favour of the practitioner, and the President shall direct that the inquiry shall not be held.

(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, 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:

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 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 Professional Conduct Committee it appears to the President that a charge should be amended, 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 the last foregoing paragraph, 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 of the two last foregoing paragraphs.

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

Opening of inquiry

23. Where the practitioner does not appear the Chairman of the Professional Conduct Committee shall call upon the Solicitor to satisfy the Committee that the Notice of Inquiry has been received by the practitioner. If it does not appear to have been so received, the Committee may nevertheless proceed with the inquiry, if they think fit, on being satisfied that all reasonable efforts have been made to serve the Notice of Inquiry on the practitioner.

Reading of charge and amendment of charge after opening of inquiry

24.—(1) If the practitioner appears or, in a case where he does not appear, the Committee proceed with the inquiry, the charge or charges shall first be read to the Committee.

(2) After the reading of the charge or charges the practitioner may, if he so desires, object to the Notice of Inquiry, or to any part of it, in point of law, and upon any such objection any other party may reply thereto.

(3) If any such objection is upheld, no further proceedings shall be taken by the Committee in relation to the Notice of Inquiry, or that part of the Notice of Inquiry, to which the objection relates.

(4) Where at any stage of an inquiry it appears to the Committee that a charge shall be amended, the Committee, after hearing the parties and consulting the Legal Assessor, may amend the charge as necessary to meet the circumstances of the case unless the required amendments cannot be made without injustice.

Cases relating to conviction

25.—(1) In cases relating to conviction, where the practitioner appears, 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 if he admits it the Chairman shall thereupon announce that the conviction has been proved.

(*d*) If the practitioner does not admit all the convictions, he may, if he intends to adduce oral evidence in addition to his own oral evidence as respects any conviction which he does not admit, open his case.

(*e*) The practitioner may adduce evidence in respect of any conviction which he does not admit.

(*f*) 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.

(*g*) The Solicitor may then address the Committee.

(*h*) The practitioner may then address the Committee.

(2) Where the practitioner does not appear but the Committee have decided to proceed with the inquiry, sub-paragraphs (*a*) and (*c*) of paragraph (1) of this rule shall apply but the remainder of that paragraph shall not apply.

(3) On the conclusion of the proceedings under either of the last two foregoing paragraphs, the Committee shall consider every conviction alleged in the charge or charges, other than any conviction which has been admitted by the practitioner or as to which it has been announced that the conviction has not been proved, and shall determine whether it has been proved; and the Chairman of the Committee shall announce their determination in such terms as they may approve.

Character evidence and pleas in mitigation in cases 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, if he appears, to address the Committee by way of mitigation and to adduce evidence as aforesaid.

(3) The Committee shall then proceed in accordance with rule 34.

Cases relating to conduct

27.—Subject to the provisions of rule 28 of these rules, in cases relating to conduct where the practitioner appears, the following order of proceedings shall be observed as respects proof of the charge or charges:—

(*a*) The Solicitor, or the complainant if any, shall open the case against the practitioner and present the facts on which the complaint or information is based.

(*b*) The complainant or the Solicitor, as the case may be, may adduce evidence of the facts alleged in the charge or charges.

(*c*) 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.

(*d*) At the close of the case against him the practitioner may make either or both of the following submissions as respects any charge which remains outstanding, namely—

(i) that no sufficient evidence has been adduced upon which the Committee could find that the facts alleged in the charge have been proved;

(ii) that the facts of which evidence has been adduced are insufficient to support a finding of serious professional misconduct;

and where any such submission is made, the complainant or the Solicitor, as the case may be, may answer the submission and the practitioner may reply thereto.

(*e*) 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.

(*f*) The practitioner may then open his case upon any charge which remains outstanding.

(*g*) The practitioner may adduce evidence in answer to any such charge.

(*h*) At the close of the evidence for the practitioner, the complainant or the Solicitor, as the case may be, may, with the leave of the Committee, adduce evidence to rebut any evidence adduced by the practitioner.

(*i*) The complainant, or the Solicitor, as the case may be, may then address the Committee.

(*j*) The practitioner may then address the Committee.

Admission of facts

28.—(1) Where in a case relating to conduct the practitioner admits at the opening of the inquiry all the facts alleged in any charge or charges against him, the Chairman shall thereupon announce that the facts alleged in such charge or charges have been proved; and rules 27 to 31 shall not apply.

(2) The complainant or the Solicitor, as the case may be, shall address the Committee and may adduce evidence as to the circumstances leading up to the relevant facts, the extent to which such facts are indicative of serious professional misconduct on the part of the practitioner, and the character and previous history of the practitioner. Only one address may be made under this paragraph, and, where evidence is adduced, it shall be made either before that evidence is begun or after it is concluded.

(3) The practitioner shall then be invited to address the Committee by way of mitigation and may adduce evidence as to the circumstances leading up to the relevant facts, the extent to which such facts are indicative of serious professional misconduct on his part, and his character and previous history. Only one address may be made under this paragraph and, where the practitioner adduces evidence, it shall be made either before that evidence is begun or after it is concluded.

(4) On the conclusion of proceedings under this rule, the Committee shall then proceed under rules 33 and 34.

Non-appearance of practitioner in a case relating to conduct

29. Where in a case relating to conduct the practitioner does not appear, but the Committee have decided to proceed with the inquiry, paragraphs (*a*) to (*c*) of rule 27 shall apply but the rest of that rule shall not apply.

Findings of fact

30.—(1) On the conclusion of the proceedings under either rule 27 or 28, the Committee shall consider and determine as respects each charge which remains outstanding which, if any, of the facts alleged in the charge have been proved to their satisfaction.

(2) If under paragraph (1) of this rule the Committee determine, as respects any charge, either that none of the facts alleged in the charge has 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 a finding that the practitioner is not guilty of such misconduct in respect of the matters to which that charge relates.

(3) The Chairman shall announce the determination or the finding of the Committee.

Evidence as to circumstances of proven facts and character evidence

31. If under the last foregoing rule the Committee have determined, as respects any charge, that the facts, or some of the facts, alleged in the charge have been proved to their satisfaction, and the Committee have not on those facts recorded a finding of not guilty, the Chairman shall invite the complainant

or the Solicitor, as the case may be, to address the Committee and to adduce evidence as to the circumstances leading up to the facts in question, 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.

Pleas in mitigation in cases relating to conduct

32. The Chairman shall then invite the practitioner, if he appears, to address the Committee by way of mitigation and to adduce evidence as aforesaid.

Finding of serious professional misconduct

33.—(1) The Committee shall then consider and determine whether in relation to the facts proved as aforesaid they find the practitioner to have been guilty of serious professional misconduct.

(2) If they determine that he has not been guilty of such misconduct, they shall record a finding to that effect.

Determinations of the Committee

34.—(1) Where in any case a conviction has been found proved or a practitioner has been found guilty of serious professional misconduct in accordance with the foregoing rules, the Committee shall proceed to a determination in accordance with the following provisions of this rule.

(2) The Committee shall first consider and determine whether it shall be sufficient to admonish the practitioner and conclude the case.

(3) If the Committee do not determine as aforesaid they shall next consider and decide whether they should postpone their determination until such future date or meeting of the Committee as they may specify.

(4)(*a*) If the Committee decide not to postpone their determination they shall next consider and determine whether it shall be sufficient to direct, in accordance with section 7(1)(iii) of the Act, 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 what conditions (of whatever nature) shall be imposed, and the Committee may impose more than one condition under this paragraph.

(5) If the Committee do not determine to impose any conditions upon the practitioner's registration as aforesaid they shall next consider and determine whether it shall be sufficient to direct, in accordance with section 7(1)(ii) of the Act, that the practitioner's registration shall be suspended for a specified period not exceeding 12 months.

(6) If the Committee do not determine to direct suspension in accordance with the foregoing paragraph the Committee shall thereupon direct that the name of the practitioner shall be erased from the Register.

Order for immediate suspension of registration

35. 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 consider and determine also whether it is necessary for the protection of members of the public or would be in the best interests of the practitioner to

order, in accordance with section 9(1) of the Act, that his registration shall be suspended forthwith.

Announcement of determination

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

Revocation of order for interim suspension or interim conditional registration

37. 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 in accordance with section 13(7) of the Act, revoke such order.

Alternative procedure in cases of conduct:
Postponement of finding of serious professional misconduct

38.—(1) Notwithstanding anything in rule 33 the Committee may, if in any case of conduct they think fit, decide to postpone their finding whether a practitioner has been guilty of serious professional misconduct until such future date or meeting of the Committee as they may specify.

(2) If the Committee decide to postpone their finding under the foregoing paragraph, the Chairman shall announce their decision in such terms as the Committee may approve.

Cases relating both to conviction and to conduct

39. 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 of these rules.

(*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 rules 27 to 33 of these rules.

(*c*) The Committee shall then take any proceedings required by any of the following rules, namely rules 34 to 37.

Inquiries into charges against two or more practitioners

40. 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 by or in relation to the several practitioners.

Reference and transfer of cases to the Health Committee

41. Notwithstanding any other provisions in these rules the Professional Conduct Committee may in accordance with paragraph 4 of Schedule 4 to the Act, proceed as provided in the following paragraphs:—

(*a*) Where in the course of an inquiry it appears to the 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. 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, at the Council's expense, by one or more medical practitioners to be selected by the Council who are engaged in such branch or branches of medicine as the Committee may specify and also, if the practitioner so elects, to examination by another medical practitioner selected by him.

(*b*) 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 condition, the Professional Conduct Committee shall then resume their inquiry in the case and dispose of it.

(*c*) 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 condition, the Professional Conduct Committee shall cease to exercise their functions in relation to the case.

RESUMED HEARINGS BY THE PROFESSIONAL CONDUCT COMMITTEE

Direction for resumed hearing

42.—(1) In any case where the Committee have determined that the registration of any person shall be suspended for a specified period or that his registration should be subject to conditions for a specified period, they may, when announcing 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 should be extended or that the name of that person should be erased from the Register.

(2) If, in any case where the Committee have given no intimation in accordance with the foregoing paragraph of this rule, it appears to the President during the specified period of suspension, in consequence of the receipt of information as to the conduct or conviction since the original hearing of any person whose registration has been so suspended, that the Committee should consider whether or not the period of suspension should be extended or whether the name of such person should be erased from the Register, he shall direct the Solicitor to notify the practitioner that the Committee will resume consideration of the case at a specified meeting.

(3) Where in any case the Committee have—

(*a*) decided to postpone their determination under rule 34(4) of their finding under rule 38 to a specified date, or

(*b*) directed that the practitioner's registration should be conditional upon his reappearance before the Committee at a specified date, or

(*c*) suspended a practitioner's registration and intimated that they will resume consideration of the case at a specified meeting,

and it subsequently appears to the President, in consequence of the receipt of information as to the conduct or a conviction of the practitioner since the original hearing, 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 as the President shall specify.

(4) Without prejudice to the generality of the foregoing rule where in 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 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.

(5) In any case in which the President has given a direction under paragraphs (2) to (4) of this rule, the Committee shall then resume consideration of the case at the meeting specified in the direction notwithstanding their earlier decision.

Notice of resumed hearing

43. Where under any of the foregoing provisions of these rules the judgment or finding of the Committee in any case stands postponed, or where the Committee have directed that the registration of a practitioner shall be conditional on his reappearance before them, or that his registration shall be suspended and have intimated that before the end of the period of suspension they will resume consideration of the case, or where the President has so directed under rule 42:—

(*a*) The Solicitor shall, not later than six weeks before the day fixed for the resumption of the proceedings, send to the practitioner 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 42 state the nature of the information in consequence of which he had 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 habits and conduct since the time of the original inquiry.

(*b*) The said Notice shall be sent to the practitioner by registered post or by the recorded delivery service at his address, if it appears to the Solicitor that a letter so addressed is more likely to reach him.

(*c*) In any case where there is a complainant a copy of the Notice shall be sent to him.

New charge at resumed hearing

44.—(1) If, since the original hearing, a new charge against the practitioner has been referred to the Committee, the Committee shall first proceed with the new charge so far as is provided by rule 25 or rules 27 to 29 as the case may be.

(2) The Committee shall take concurrently any proceedings required by rule 26 or rules 30 to 32 of these rules as the case may be and rules 45 to 52 below.

Procedure at resumed hearing

45.—(1) Subject to the provisions of the foregoing rule, 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 42, the Solicitor shall adduce evidence of the conduct or conviction of the practitioner which led to the exercise of these powers.

(3) The Committee may then—

(*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 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 require.

Procedure following postponement under rule 38

46.—(1) If in a case of conduct the Committee had previously determined under rule 38 to postpone their finding whether the practitioner has been guilty of serious professional misconduct, the Committee shall first consider and determine whether further to postpone such finding.

(2) If the Committee decide further to postpone their finding the Chairman shall announce their decision in such terms as the Committee may approve.

(3) If the Committee decide not further to postpone their finding, they shall consider and determine whether the practitioner has been guilty of serious professional misconduct.

(4) If they determine that he has not been guilty of such misconduct they shall record a finding to that effect.

(5) If the Committee determine that he has been guilty of such misconduct they shall then proceed in accordance with rules 32 to 35.

Procedure following postponement under rule 34(3)

47. If at the previous hearing the Committee had postponed their determination under rule 34(3) they shall next consider and decide whether they should further postpone their determination until such future date or meeting of the Committee as they may specify, and the provisions of rules 34(4) to (6), 35 and 36 shall then have effect.

Procedure where conditional registration had been imposed

48.—(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.

(2) If the Committee judge that the practitioner has so failed to comply, they shall next consider and determine whether to direct in accordance with section 7(2) of the Act that the practitioner's registration shall be suspended for a specified period not exceeding 12 months or whether to direct that his name shall be erased from the Register.

(3) If the Committee do not judge that the practitioner has failed to comply with any of the requirements imposed on him as conditions of his registration or if, notwithstanding that they had judged him so to have failed, they do not think fit to direct that his registration shall be suspended or that his name

shall be erased from the Register the Committee shall next consider and determine whether:

(i) to direct that the current period of conditional registration shall be extended for a further specified period not exceeding 12 months; or

(ii) (whether or not they have extended the period as aforesaid) to vary any of the conditions previously imposed upon his registration; or

(iii) whether the original order should now be revoked.

Procedure where registration has been suspended

49. Where at a previous hearing the Committee had directed that the practitioner's registration should be suspended the Committee shall consider and determine whether:—

(*a*) to direct that the current period of suspension shall be extended for such further period not exceeding 12 months from the time when it would otherwise expire as they may specify, or

(*b*) to direct that the name of the practitioner shall be erased from the Register, or

(*c*) 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 interest (in which case the provisions of rule 34(4)(*b*) shall apply), or

(*d*) to give no further direction.

Announcement of determination at resumed hearing

50. 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

51. The provisions of the foregoing rules 44 to 50 shall also apply to the proceedings in any case in which the determination of the Committee had already been postponed or in which the Committee had already directed that a period of suspension or conditional registration should be extended or further extended.

APPLICATIONS FOR RESTORATION AFTER ERASURE

Procedure for consideration of applications for restoration

52. Where a person applies for the restoration of his name to the Register under section 12 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 the Third Schedule to these rules.

(*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 and condition 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.

GENERAL

Adjournment of proceedings

53. 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

54.—(1) 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 except as provided by the following paragraphs of this rule.

(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

55.—(1) Where the Committee postpone their determination or impose conditions upon a practitioner's registration under rule 34, or suspend the registration of a practitioner and give an intimation under rule 42(1), or the President determines under rule 42(2) that they will resume consideration of the case, or where the Committee adjourn consideration of an application under rule 52(*e*), the Committee may require the practitioner or applicant 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 habits and conduct since the time of the original hearing.

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

Evidence

56.—(1) The 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 birth and marriage and 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 through the Chairman or by the Legal Assessor with the leave of the Chairman.

Voting

57. 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:—

(1) 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.

(2) If the result so declared by the Chairman is challenged by any member, the Chairman shall—

(*a*) call upon each member severally to declare his vote,

(*b*) announce his own vote, and

(*c*) announce the number of members of the Committee who have voted each way and the result of the vote.

(3) If the votes are equal, the question shall be deemed to have been resolved in favour of the practitioner or applicant, as the case may be. For the purpose of this paragraph a decision by the Professional Conduct Committee to postpone judgment or postpone a finding shall be taken to be in favour of a person unless he has indicated to the Committee that he is opposed to postponement.

Representation

58.—(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 organisation of which he is a member, or by any member of his family.

Postal service of documents

59. Without prejudice to any requirement of these rules as to the service of documents by registered post or recorded delivery service, any notice authorised or required by these rules may be sent by post.

Notes and transcript of proceedings

60.—(1) A shorthand-writer shall be appointed by the 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.

Transitional arrangements

61. Where on or after the appointed day a pending disciplinary case is referred to the Preliminary Proceedings Committee or to the Professional Conduct Committee, these rules shall have effect in relation to such a case subject to the provisions of Schedule 3 to the Act.

FIRST SCHEDULE

PROVISIONS AS TO MEETINGS OF THE PRELIMINARY PROCEEDINGS COMMITTEE AND OF THE PROFESSIONAL CONDUCT COMMITTEE

1. The Professional Conduct Committee and Preliminary Proceedings Committee shall each meet not less than three times a year.

2. The Committees shall each meet on such days as the Chairman, Committee or Council may determine and at such times as the Chairman may determine.

3. Meetings of the Preliminary Proceedings Committee shall be held not less than six weeks before each meeting of the Professional Conduct Committee.

4. Members of the Preliminary Proceedings Committee and of the Professional Conduct Committee shall be summoned to meetings of the Committee by the Registrar, by notice addressed to each member. Such notice shall be sent not less than three weeks before the meeting to which it relates.

5. Meetings of each Committee shall be held at the offices of the Council unless the Council or in emergency the President shall otherwise direct.

SECOND SCHEDULE

FORM OF NOTICE OF AN INQUIRY

(Date)

Dear Sir/Madam,

On behalf of the General Medical Council notice is hereby given to you that in consequence of [a complaint made against you to the Council] *or* [information

received by the Council] an inquiry is to be held into the following charge [charges] against you:—

(If the charge relates to conviction) That you were on the ..... day of ..... at (specify court recording the conviction) convicted of (set out particulars of the conviction in sufficient detail to identify the case).

OR

(If the charge relates to conduct) That, being registered under the Medical Acts, you (set out briefly the facts alleged): and that in relation to the facts alleged you have been guilty of serious professional misconduct.

(Where there is more than one charge, the charges are to be numbered consecutively, charges relating to conviction being set out before charges relating to conduct.)

Notice is further given to you that on [day of the week] the ..... day of ..... 19.., a meeting of the Professional Conduct Committee will be held at....., at .... a.m./p.m. to consider the above-mentioned charge [charges] against you, and to determine whether or not they should direct the Registrar to erase your name from the Register or to suspend your registration therein, or to impose conditions on your registration pursuant to section 7 of the Medical Act 1978.

You are hereby invited to appear before the Committee at the place and time specified above, for the purpose of answering the above-mentioned charge [charges]. You may appear in person or by Counsel or Solicitor, or by any officer or member of any organisation of which you are a member, or by any member of your family. The Committee have power, if you do not appear, to hear and decide upon the said charge [charges] in your absence.

Any answer, admission, or other statement or communication, which you may desire to make with respect to the said charge [charges], should be addressed to the Solicitors to the Council.

If you desire to make any application that the inquiry should be postponed, you should send the application to us as soon as possible, stating the grounds on which you desire a postponement. Any such application will be considered by the President of the General Medical Council in accordance with rule 18 of the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1980.

Yours faithfully,
Solicitors to the General Medical Council.

THIRD SCHEDULE

Statutory Declaration to be made by an Applicant for Restoration to the Register

(N.B. This declaration must be made before a Commissioner for Oaths, a Solicitor authorised to administer oaths, or a Justice of the Peace.)

I, the undersigned.....
how holding the qualification(s) of.....
do solemnly and sincerely declare as follows:—

1. I am the person formerly registered as a medical practitioner with the name .....and with the qualification(s) of.....and I hereby apply for the restoration of my name to the Register.

2. At an inquiry held on the.....day of..... nineteen hundred and..... the Disciplinary Committee/Professional Conduct Committee directed my name to be erased from the Register, and the offence for which the Committee directed the erasure of my name was.....

.....

3. Since the erasure of my name from the Register I have been residing at

.....

and my occupation has been.....

4. It is my intention if my name is restored to the Register to.....

.....

.....

5. The grounds of my application are.....

.....

.....

And I make this declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

Signed.....

Declared at.....
on.....
before me,.....
A Commissioner for Oaths.

Given under the official seal of the General Medical Council this twenty-second day of May, nineteen hundred and eighty.

(L.S.)

Richardson,
President.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Rules approved by this Order provide for the reference of cases to the Preliminary Proceedings Committee and to the Professional Conduct Committee of the Council established under section 6 of the Medical Act 1978, and for the procedure to be followed and the rules of evidence to be observed in proceedings before the Professional Conduct Committee. They also provide for the times and places of the meetings of each Committee and mode of summoning the members and the manner in which the Preliminary Proceedings Committee are to discharge their functions.

The Rules replace, with amendments, the General Medical Council Disciplinary Committee (Procedure) Rules 1970 following the supersession of the former Penal Cases Committee and former Disciplinary Committee by the Preliminary Proceedings Committee and the Professional Conduct Committee. They provide for the exercise of the new powers to order interim suspension or interim conditional registration conferred on the Preliminary Proceedings Committee by the Medical Act 1978 and to order conditional registration conferred on the Professional Conduct Committee by that Act.

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