



The General Social Care Council
(Conduct) Rules 2003
and Explanatory Notes

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- **The General Social Care Council (Conduct) Rules 2003, and**
- **Explanatory Notes**

The General Social Care Council (Conduct) Rules 2003

The General Social Care Council, in exercise of its powers under sections 59(1), 59(2), 59(3), and 71(1) of the Care Standards Act 2000, and of all other powers enabling the Council in that behalf, and with the consent of the Secretary of State, hereby makes the following Rules:

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Citation and commencement

- 1 These Rules may be cited as the General Social Care Council (Conduct) Rules 2003 and shall come into force on 1st April 2003.

Interpretation

- 2 (1) In these Rules, unless the context otherwise requires –

“**the Act**” means the Care Standards Act 2000;

“**Care Standards Tribunal**” means the Tribunal established under Section 9 of the Protection of Children Act 1999;

“**the Conduct Procedure**” is the procedure set out in SCHEDULE 2 (other than the procedure set out in paragraph 29 of that SCHEDULE);

“**Complainant**” means any person (including an employer or institution) who makes a complaint against the Registrant and thereby has an interest in the outcome of the proceedings;

“**the Council**” means the General Social Care Council;

“**the Employer**” means an employer of a social care worker;

“**the Formal Allegation**” means the allegations against the Registrant which are set out in the Notice of Hearing;

“**the Health Procedure**” is the procedure set out in paragraph 29 of SCHEDULE 2;

“**Interim Suspension Order**” means an Order for suspension of the Registrant’s registration made by the Preliminary Proceedings Committee;

“**Lay Person**” means a person who is not, and who has not within five years of appointment to the Conduct Committee, been:

- (a) a social care worker; or
- (b) involved in the training, education, appointment, employment, supply, supervision, monitoring or representation of social care workers;

“**Legal Adviser**” means a barrister or a solicitor qualified to practise in England and Wales;

“**Medical Adviser**” means a registered medical practitioner appointed by the Council;

“Misconduct” means conduct which calls into question the suitability of a Registrant to remain on the Register;

“the Parties” means the Presenter (and may include an officer of the Council instructing the Presenter) and the Registrant (or the Registrant’s representative) at a hearing before a Committee, and specifically excludes the Complainant;

“the Presenter” means the person acting on behalf of the Council at a hearing before a Committee, and may include an officer of the Council or a solicitor or barrister engaged by the Council for this purpose;

“Register” means the Register maintained under section 56 of the Act;

“Registrant” means a person registered in the Register;

“Removal Order” means an Order for the removal of the Registrant’s registration from the Register, made by the Conduct Committee;

“Suspension Order” means an Order for suspension of the Registrant’s registration made by the Conduct Committee;

(2) Unless the context otherwise requires, a reference-

(a) in these Rules-

(i) to a numbered rule is a reference to the rule bearing that number in these Rules, and

(ii) to a numbered schedule is a reference to the schedule bearing that number in these Rules;

(b) in a rule in, or in a schedule to these Rules, to a numbered paragraph is a reference to the paragraph bearing that number in that rule or schedule;

(c) in a paragraph in, or in a schedule to these Rules, to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that rule or schedule.

Service of documents

3 In these Rules –

(a) any reference to the sending of a notice to a Registrant or to a former Registrant is a reference to the sending of a notice by registered post or by a postal service in which delivery or receipt is recorded to the Registrant’s or former Registrant’s address in the Register or, if the last-known address differs from the address in the Register, the Registrant or former Registrant’s last-known address;

(b) where any notice is to be sent to a Registrant or former Registrant, it shall be treated as having been served on the day after it was posted.

Part II Committees

Constitution of committees

- 4 (1) The Council shall establish the following three Committees:
- (a) Preliminary Proceedings Committee;
 - (b) Conduct Committee; and
 - (c) Restoration Committee.

Function of committees

Preliminary Proceedings Committee

- 5 (1) It shall be the duty of the Preliminary Proceedings Committee to consider any complaint(s) against a Registrant referred to it and decide:
- (a) whether the complaint(s) should be referred to the Conduct Committee, under the Conduct Procedure or Health Procedure;
 - (b) whether it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the Registrant concerned, for the Committee to make an Interim Suspension Order;
 - (c) whether no further action should be taken in respect of the complaint.
- (2) Subject to (3) below, where the Preliminary Proceedings Committee determines to refer a complaint to the Conduct Committee, it shall refer the complaint under the Conduct Procedure.
- (3) Where the Preliminary Proceedings Committee considers that the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health, it shall refer the complaint to the Conduct Committee under the Health Procedure.
- (4) The Preliminary Proceedings Committee shall also consider applications made by the Council, at any time, that an Interim Suspension Order should be imposed on the Registrant's registration, on the grounds that such Order is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the Registrant concerned.
- (5) Where the Preliminary Proceedings Committee decides that it is necessary to impose an Interim Suspension Order on a Registrant's registration, the initial duration of such an Order shall not exceed six months.
- (6) Where the Preliminary Proceedings Committee decides to impose a further Interim Suspension Order in accordance with the provisions set out in paragraph 12 of SCHEDULE 1, the total period of suspension shall not exceed a period of 2 years including the period specified in the original Order.

Conduct Committee

- (7) It shall be the duty of the Conduct Committee to consider:
- (a) any Formal Allegation of Misconduct against a Registrant referred to it, and to decide:
 - (i) whether the Registrant has committed Misconduct, such as to call into question the Registrant's suitability to remain on the Register;
 - (ii) Where it has decided that the Registrant has committed Misconduct, what sanction should be imposed on the Registrant;
 - (iii) where the Registrant is unfit to plead, whether the Registrant should be suspended from the Register.
 - (b) any criminal convictions referred to it, and to decide:
 - (i) whether the Registrant has committed Misconduct, such as to call into question the Registrant's suitability to remain on the Register;
 - (ii) where the Registrant has committed Misconduct, what sanction should be imposed on the Registrant.

Restoration Committee

- (8) It shall be the duty of the Restoration Committee to consider any application for restoration to the Register referred to it and to decide:
- (a) whether, in all the circumstances of the case, and having regard to the matters set out in paragraph 7(2) of SCHEDULE 3, the Registrant should be restored to the Register; and
 - (b) where the Registrant is to be restored, whether conditions should be placed on the Registrant's registration.

Procedure of committees

- 6 (1) The Preliminary Proceedings Committee shall follow the procedure set out in SCHEDULE 1.
(2) The Conduct Committee shall follow the procedure set out in SCHEDULE 2.
(3) The Restoration Committee shall follow the procedure set out in SCHEDULE 3.

Membership and quorum of committees

- 7
- (1) The Council shall maintain a pool of members from which members of the individual Committees hearing a particular case shall be appointed.
 - (2) Each Committee shall consist of up to five members, appointed by the Council.
 - (3) The quorum of each Committee shall be three, and each Committee shall sit with either three or five members present.
 - (4) The majority of members of each Committee shall be Lay Persons.
 - (5) The Council shall appoint a Chair of each Committee. The Chair shall be a Lay Person, and shall not be a member of the Council.
 - (6) The Chair of the Council shall not sit as a member on any Committee.
 - (7) The Council shall ensure that a member is appointed to the Committee who has experience or understanding of the area of social care work practised by the Registrant whose case is under consideration.
 - (8) Members of each Committee shall be appointed for a period not exceeding 4 years and shall be eligible for re-appointment for a further period not exceeding 4 years.
 - (9) No member of any Committee shall sit as such on the hearing of a Registrant's case, if that member has previously been concerned with the case.
 - (10) Notwithstanding (9) above, members of the Preliminary Proceedings Committee may sit as such, at both the initial and subsequent considerations of a Registrant's case, by that Committee.

Voting of committees

- 8
- (1) Decisions of all Committees shall be taken by simple majority.
 - (2) No Chair of any Committee may exercise a casting vote.
 - (3) Any abstention shall be deemed to be a vote in favour of the Registrant.

The legal adviser

- 9
- (1) A Legal Adviser shall be present at the proceedings of each Committee. The Legal Adviser shall also be present during the deliberations of each Committee.
 - (2) The role of the Legal Adviser shall be to advise each Committee on questions of law, and to ensure that proceedings before each Committee are conducted fairly. To this end, the Legal Adviser shall inform a Committee immediately of any irregularity in the conduct of proceedings before that Committee.
 - (3) Where the proceedings of a Committee are held in private, that Committee shall maintain a record of any advice tendered by the Legal Adviser.

- (4) Where the proceedings of a Committee are held in public, the advice of the Legal Adviser shall be given in the presence of the Parties. Any advice given by the Legal Adviser during the private deliberations of the Committee shall subsequently be repeated before the Parties.
- (5) The Parties shall have the opportunity to make representations on the contents of the advice given by the Legal Adviser before any decision has been taken by the committee.
- (6) The Legal Adviser shall not be entitled to vote.

Medical adviser

- 10 (1) Where it appears to the Council that the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health, the Council shall appoint a Medical Adviser to advise each Committee that is to consider the allegations of Misconduct.
- (2) A Medical Adviser shall be present whenever a Committee's procedures are held under the Health Procedure.
- (3) Where the Registrant or former Registrant is not present during the proceedings of a Committee, that Committee shall maintain a record of any advice given by the Medical Adviser.
- (4) Where the Parties are present during the proceedings of a Committee, the advice of the Medical Adviser shall be given in the presence of the Parties. Any advice given by the Medical Adviser during the private deliberations of the Committee shall subsequently be repeated before the Parties.
- (5) The Parties shall have the opportunity to make representations on the contents of the advice given by the Medical Adviser.
- (6) The Medical Adviser shall not be entitled to vote.

Clerk to the committee

- 11 (1) Each Committee shall be assisted by a Clerk who shall be responsible for the administrative arrangements for the hearing.
- (2) The Clerk shall not participate in the decision making of the Committee.

Part III Complaints

Procedure upon receipt of information about a registrant

- 12 (1) On receipt of information about a Registrant, an officer of the Council shall first consider whether such information is capable of amounting to a complaint.
- (2) Information shall only be considered to be capable of amounting to a complaint where such information:
 - (a) relates to an identifiable Registrant; and
 - (b) makes a specific allegation or allegations of misconduct against the Registrant; or
 - (c) relates to the circumstances specified in Rule 13 (c) below.
- (3) For the purpose of establishing whether any information received is capable of amounting to a complaint, the Council may make such preliminary inquiries as it considers necessary in the circumstances, including instructing solicitors to investigate the matter, and seeking further information or clarification from the Registrant and the Registrant's Employer.
- (4) Where the information does not amount to a complaint, the Council shall inform the provider of the information that no further action will be taken and that the matter will be closed.
- (5) Where the information is capable of amounting to a complaint, the Council shall send the Complainant a copy of the Council's guidance about making a Complaint. The Council may also inform the Complainant of alternative methods of resolving a complaint, including mediation or remedies available through a Registrant's Employer.
- (6) Upon confirmation that the information received amounts to a complaint, and that the Complainant wishes to proceed with the complaint, the Council shall refer the complaint to the Preliminary Proceedings Committee for consideration. If the Complainant does not wish to proceed with the Complaint, the Council may in the interest of public protection act as the Complainant and refer the matter to the Preliminary Proceedings Committee for consideration.
- (7) Where the Council has received information about a Registrant, and that Registrant is already the subject of an inquiry by the police, any statutory inquiry or tribunal, or other regulatory body set out in SCHEDULE 4, the Council may defer the investigation or referral of a complaint to the Preliminary Proceedings Committee until the inquiry by the police or other regulatory body has concluded.

- (8) The Council shall not refer anonymous complaints to the Preliminary Proceedings Committee. Where anonymous allegations are received by the Council, the Council shall investigate the matter and if satisfied that the allegations amount to a complaint, the Council shall act as the Complainant, and refer the matter to the Preliminary Proceedings Committee for consideration.

Part IV Removal and Suspension from the Register

Removal and suspension from the register

- 13 (1) The circumstances in which a Registrant may be removed or suspended from the Register are:
- (a) that the Conduct Committee has made a finding of Misconduct against the Registrant (including a finding that the Registrant has failed to comply with conditions imposed under Section 58(1) of the Act; or that the Registrant has secured registration by fraud or the provision of false or misleading information);
 - (b) that a Formal Allegation of Misconduct against the Registrant has been referred to the Conduct Committee and the Registrant has been found unfit to plead;
 - (c) that the Registrant has been convicted (at any time) in the United Kingdom of a criminal offence or has been convicted (at any time) elsewhere of an offence which, if committed in the United Kingdom would constitute a criminal offence, whether while registered or not.

The Secretary of State having consented, the General Social Care Council hereby makes these Rules.

Dated this 27th day of March two thousand and three.



Chair

Schedule 1 Procedure of the Preliminary Proceedings Committee

Arrangement of Paragraphs

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- 3 Initial consideration by committee
- 4 Notice of Referral
- 5 Subsequent consideration by committee
- 6 Disposal
- 7 Notice of transfer
- 8 Notice to complainant
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- 10 Cancellation of hearing
- 11 Interim suspension orders
- 12 Review of interim suspension orders

Interpretation

- 1 In this SCHEDULE, 'the Committee' means the Preliminary Proceedings Committee.

Public or private proceedings

- 2 (1) Subject to (2) below, the proceedings of the Committee shall be held in private.
- (2) Where the Committee is considering whether or not to impose an Interim Suspension Order on the Registrant's Registration, the Committee may sit in public, if the Registrant so requests.

Initial consideration by the committee

- 3 (1) No later than 7 days before the initial consideration of the case, the Council shall provide the Clerk with:
 - (a) a summary of the facts alleged in the Complaint;
 - (b) a copy of the signed Complaint Form if any;
 - (c) any relevant documents or witness statements;
 - (d) recommendations for disposal.
- (2) At the initial consideration of a Registrant's case, the Committee shall first consider whether any complaint referred to it calls into question the suitability of the Registrant to remain on the Register.
- (3) Where the complaint does not call into question the suitability of the Registrant to remain on the Register, the Committee shall take no further action and the Clerk shall inform the Complainant accordingly, in writing.
- (4) Where the Committee has determined that a complaint calls into question the suitability of the Registrant to remain on the Register, the Committee shall adjourn its consideration of the matter to a second meeting.
- (5) The Parties shall not be present during the initial consideration of complaints by the Committee.

Notice of referral

- 4 (1) No later than 28 days before the second consideration of the Registrant's case, the Clerk shall send the Registrant and the Council a Notice of Referral.
- (2) No later than 28 days before the second consideration of the Registrant's case, the Clerk shall additionally send the Registrant:
 - (a) copies of the complaint and any documentation in support;
 - (b) a copy of these Rules.

- (3) The Notice of Referral shall:
 - (a) set out the complaint which calls into question the Registrant's suitability to remain on the Register;
 - (b) invite the Registrant to make written representations upon the complaint within 14 days of service of the Notice;
 - (c) inform the Registrant of the date of the hearing;
 - (d) inform the Registrant that the Committee, and the Council, may seek further information about the complaint from the Registrant's Employer if any, or any other source.

Second consideration by committee

- 5 (1) At the second or any subsequent consideration of the Registrant's case, the Committee shall consider the complaint against the Registrant and any information obtained from the Registrant's Employer or other source.
- (2) The Committee shall then consider the Council's recommendations for disposal, together with any further documentation provided by the Council, and any written representations and documentation provided by the Registrant.
- (3) Any documentary evidence to be considered by the Committee shall normally be lodged with the Clerk 7 days before the meeting.
- (4) Except where the Committee is considering whether or not to make an Interim Suspension Order, the Committee shall not receive oral testimony.

Disposal

- 6 (1) At the second or subsequent hearing of the Registrant's case, the Committee may:
 - (a) refer the case to the Conduct Committee;
 - (b) impose an Interim Suspension Order on the Registrant's registration if satisfied that such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the Registrant;
 - (c) direct that further investigations should be undertaken and adjourn the matter;
 - (d) take no further action and conclude the case.
- (2) The Committee shall not refer a complaint to the Conduct Committee unless it is satisfied that there is a real prospect of a finding of Misconduct in relation to the complaint.
- (3) Where the Committee determines that a complaint shall not be referred to the Conduct Committee, the Clerk shall send written notification, with the reasons for the Committee's decision, to the Registrant, the Council and the Employer if any.

Notice of transfer

- 7 (1) Where the Committee has determined that the case should be transferred to the Conduct Committee, the Clerk shall send a Notice of Transfer to:
 - (a) the Registrant;
 - (b) the Council;
 - (c) the Registrant's Employer if any.
- (2) The Notice of Transfer shall:
 - (a) give reasons for the Committee's decision;
 - (b) state whether the case has been transferred to the Conduct Committee under the Conduct Procedure or the Health Procedure, and the reasons why.
- (3) Where the Committee has determined that the Health Procedure should be followed, the Notice of Transfer shall additionally invite the Registrant to agree within 14 days from the date on which the Notice is sent:
 - (a) to be examined (at the Council's expense) by a Medical Adviser nominated by the Council; and
 - (b) that such Medical Adviser provide the Conduct Committee with a report on whether the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health.

Notice to complainant

- 8 The Clerk shall inform the Complainant of the Committee's decision on whether or not the case should be transferred to the Conduct Committee, and the reasons for that decision.

Further investigation by the Council

- 9 Upon receipt of the Notice of Transfer, the Council shall take such steps as it deems necessary, to arrange for the investigation and preparation of the case against the Registrant for hearing.

Cancellation of hearing

- 10 Where, during the course of the Council's preparation of the case for hearing, it appears that the matter should no longer proceed to a hearing, or where the Legal Adviser makes such a recommendation at a pre-hearing review held under paragraph 2 of Schedule 2, the Council shall refer the matter back to the Committee to re-consider whether or not the complaint should be referred to the Conduct Committee.

Interim suspension orders

- 11 (1) Where, at the initial or any subsequent hearing, the circumstances of the case are such that the Committee considers that an Interim Suspension Order may be necessary for the protection of members of the public or may otherwise be in the public interest or in the interests of the Registrant, or an application for an Interim Suspension Order is made by the Council, the Notice of Referral shall additionally:
- (a) inform the Registrant of the right to attend the hearing;
 - (b) inform the Registrant of the time and venue for the hearing;
 - (c) request the Registrant to inform the Committee whether the Registrant wishes the proceedings to be heard in private or in public;
 - (d) provide the Registrant with a brief statement of the matters which appear to raise the question whether:
 - (i) the Registrant's registration should be suspended; and
 - (ii) why such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the Registrant;
 - (e) inform the Registrant of the rights to give evidence in person, to call witnesses and to cross-examine any witnesses called by the Council;
 - (f) inform the Registrant of the right to make oral submissions to the Committee in person or to be represented by:
 - (i) solicitor; or
 - (ii) barrister; or
 - (iii) a representative from the Registrant's Trade Union; or
 - (iv) a representative from the Registrant's Professional Body;
 - (g) request confirmation as to whether the Registrant intends to:
 - (i) attend the hearing;
 - (ii) be represented at the hearing.

- (2) Where an urgent application for an Interim Suspension Order is made by the Council on the grounds of protection of the public, the Committee may dispense with service of the Notice of Referral.
- (3) Notwithstanding paragraph (2) above, the Committee shall not impose an Interim Suspension Order on a Registrant's registration without first giving the Registrant notice of such intention as is reasonable in all the circumstances of the case, and allowing the Registrant, or the Registrant's representative, the opportunity to make oral submissions and written representations to the Committee. If necessary, the Committee shall adjourn for this purpose.
- (4) In addition to the procedure set out in paragraph (5) below, paragraphs 5, 9 (2) and (3), 10, 13, 14, 19 and 28 of SCHEDULE 2 shall apply where the Committee is considering whether or not to make an Interim Suspension Order.
- (5) Where the Committee is considering whether or not to make an Interim Suspension Order, the order of proceedings shall be as follows:
 - (a) The Presenter shall outline the facts of the case and set out the reasons why the Registrant's registration should be made subject to an Interim Suspension Order, together with any evidence in support;
 - (b) The Registrant (if present) shall set out the reasons why such application should not be granted by the Committee, together with any evidence in support;
 - (c) The Committee shall obtain advice from the Legal Adviser;
 - (d) The Committee shall deliberate in private;
 - (e) The Committee shall determine the application and announce its decision, and the reasons for that decision, in the presence of the Parties;
 - (f) Where the Registrant has requested that the proceedings be held in public, the Committee shall announce its decision, and the reasons for that decision, in public.
- (6) Within 7 days of the conclusion of the hearing, the Clerk shall send a Notice of Decision to:
 - (a) the Registrant;
 - (b) the Council;
 - (c) the Employer.

- (7) The Notice of Decision shall:
- (a) record any advice given by the Legal Adviser or the Medical Adviser;
 - (b) set out the decision of the Committee;
 - (c) specify the reasons for the Committee's decision;
 - (d) where an Interim Suspension Order has been imposed, set out the period of suspension, beginning on the date on which the Order is made;
 - (e) inform the Registrant of the right of appeal to the Care Standards Tribunal;

Review of interim suspension orders

- 12 (1) The Council or any person in respect of whom an Interim Suspension Order has been made, may request the Preliminary Proceedings Committee to review the Order at a review hearing.
- (2) Save in exceptional circumstances, the Committee shall not be obliged to review an Interim Suspension Order until 3 months after the date on which the Order was made.
- (3) Where the Committee decides to review an Interim Suspension Order, a Notice of Review shall be sent to the Registrant and the Council.
- (4) The Notice of Review shall:
- (a) inform the Registrant of the right to attend the hearing;
 - (b) inform the Registrant of the time and venue for the hearing;
 - (c) request the Registrant to inform the Committee whether the Registrant wishes the proceedings to be heard in private or in public;
 - (d) provide the Registrant with a brief statement of the matters which appear to raise the question whether:
 - (i) the Registrant's registration should be suspended; and
 - (ii) why such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the Registrant;
 - (e) inform the Registrant of the rights to give evidence in person, to call witnesses and to cross-examine any witnesses called by the Council;
 - (f) inform the Registrant of the right to make oral submissions to the Committee in person or to be represented by:
 - (i) solicitor; or
 - (ii) barrister; or
 - (iii) a representative from the Registrant's Trade Union; or
 - (iv) a representative from the Registrant's Professional Body.
 - (g) request confirmation as to whether the Registrant intends to:
 - (i) attend the hearing;
 - (ii) be represented at the hearing.

- (5) The procedure at the review hearing shall be the same as at the original hearing.
- (6) After reviewing an Interim Suspension Order under paragraph (1) the Committee may-
 - (a) continue the Order;
 - (b) revoke the Order;
 - (c) impose a further Order, to commence upon the expiry of the existing Order.
- (7) Within 7 days of the conclusion of the review hearing, the Clerk shall send a Notice of Decision to:
 - (a) the Registrant;
 - (b) the Council;
 - (c) the Registrant's employer(s) if any.
- (8) The Notice of Decision shall contain the matters set out in paragraph 11(7) above.

Schedule 2 Procedure of the Conduct Committee

Arrangement of Paragraphs

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Interpretation

1 In this SCHEDULE “the Committee” means the Conduct Committee.

Pre-hearing review

- 2 (1) No later than 28 days after the matter has been referred to the Conduct Committee, the Council shall convene a pre-hearing review and shall invite the Parties to attend. The Council and the Registrant may attend the pre-hearing review in addition to any representatives acting on their behalf.
- (2) The Council shall authorise a Legal Adviser to conduct the pre-hearing review, and members of the Committee shall not attend the pre-hearing review.
- (3) The pre-hearing review may be conducted by telephone or video conferencing or by such method as is agreed between the Parties and the Legal Adviser.
- (4) A record of the directions issued by the Legal Adviser, any admissions, and decisions taken at the proceedings shall be maintained by the Clerk.
- (5) The Registrant may attend in person or be represented by the persons set out in paragraph 10 below.
- (6) The following matters shall be considered at the pre-hearing review:
- (a) draft Formal Allegation against the Registrant;
 - (b) any admissions of facts;
 - (c) whether the Registrant wishes to admit Misconduct;
 - (d) the number of witnesses to be called if any;
 - (e) whether special provisions should be made for vulnerable witnesses at the hearing;
 - (f) whether expert evidence is to be adduced;
 - (g) whether the health of the Registrant will be raised as an issue in the proceedings, and if so, whether a report from a Medical Adviser should be obtained;
 - (h) any dates on which the Registrant or witnesses would be unable to attend a hearing;
 - (i) time estimate for the hearing;
 - (j) the documents which each party intends to produce.

- (7) The Legal Adviser may issue directions to the Parties for the purpose of facilitating the hearing of the matter and regarding the timetable for service of evidence, including any medical and expert reports, and the Statement of Facts if any.
- (8) The Legal Adviser may give a preliminary opinion to the Parties for the purpose of resolving questions of law or admissibility of evidence.
- (9) The decision as to whether or not to admit evidence at the hearing shall be made by the Committee at the hearing.
- (10) Where the Registrant wishes to admit either the facts of the complaint and the issue of Misconduct, or the facts of the complaint alone, the Legal Adviser shall direct the Parties to prepare an agreed Statement of Facts.

Joinder

- 3 Where a Formal Allegation against the Registrant has been referred to the Committee and a new complaint or complaints are received by the Preliminary Proceedings Committee and subsequently transferred to the Committee, such new allegations may be included in the Formal Allegation provided that they are of a similar kind.

Notice of hearing

- 4 (1) As soon as practicable after the pre-hearing review has been held, the Clerk shall send the Registrant and the Council a Notice of Hearing which shall:
 - (a) state the date, time and venue of the hearing;
 - (b) specify the Formal Allegation against the Registrant;
 - (c) state whether the case is to proceed under the Conduct or the Health Procedure;
 - (d) inform the Parties of their respective rights to:
 - (i) attend the hearing;
 - (ii) give evidence to the Committee;
 - (iii) make oral submissions to the Committee either in person or through a representative as set out in paragraph 10 below;
 - (iii) call and cross-examine witnesses;
 - (e) inform the Registrant of the possible sanctions open to the Committee in the event of a finding of Misconduct;
 - (f) inform the Registrant of the Committee's power to proceed in the absence of the Registrant, or the Registrant's representative, at the hearing.
 - (g) invite the Registrant to state whether the Registrant will be attending the hearing.

- (2) The hearing shall not be fixed for any date earlier than 28 days after the posting of the Notice of Hearing except with the agreement of the Registrant.
- (3) The Clerk shall send with the Notice of Hearing:
 - (a) a copy of these Rules; and
 - (b) any reports, written statements or other documents which the Committee will have before it.

Postponement of the hearing

- 5 (1) Where either Party wishes the hearing to be postponed, such application shall be made in writing, to the Chair of the Committee.
- (2) The Party making such application shall serve a copy of the application on the other Party, together with any supporting documentation.
- (3) The Party served with the application may submit a written response to the Chair of the Committee.
- (4) The application shall be considered by the Chair of the Committee who shall determine the application, taking into account:
 - (a) the submissions of both Parties;
 - (b) any likely prejudice to either Party;
 - (c) the public interest in the prompt disposal of the case.
- (5) In the event that the application for postponement is granted, or the matter has to be re-scheduled for some other reason, the Clerk shall inform the Parties and the Complainant of the new hearing date, as soon as possible.

Notice to complainant and to employer

- 6 The Clerk shall send a copy of the Notice of Hearing to the Complainant, and to the Registrant's Employer(s).

Disclosure of case and service of documents

- 7 (1) No later than 14 days before the date of hearing, the Parties shall serve on each other, and upon the Clerk to the Committee, copies of all documents and reports upon which they intend to rely.
- (2) The Parties shall make arrangements for original documents to be inspected no later than 7 days before the date of the hearing.

- (3) Upon receipt of the Registrant's case, the Presenter shall consider whether there are any further documents in the Council's possession which may assist the Registrant, and shall serve copies of such documents if any to the Registrant and to the Clerk.
- (4) No later than 7 days before the hearing, the Clerk shall send the Committee, copies of:
 - (a) the Notice of Hearing;
 - (b) any documents which the Parties agree may be provided to the Committee.

Procedure at the hearing

- 8 (1) Subject to these Rules and the requirements of a fair hearing, the Committee may decide its own procedures generally and may issue directions with regard to the just and prompt determination of the proceedings.
- (2) If at any time during the hearing it appears to the Committee that the alleged Misconduct has been caused by, or substantially contributed to, by the Registrant's physical or mental ill health, the Committee may cease to consider the allegation following the Conduct Procedure and instead follow the Health Procedure. If necessary, the Committee may adjourn in order to enable initial or further expert reports to be obtained.
- (3) The hearing shall be conducted in 3 stages as follows:
 - (a) preliminaries and findings of fact;
 - (b) finding of Misconduct;
 - (c) mitigation and sanction.

Public and private hearings

- 9 (1) Subject to paragraphs (2), (4), and (5) below, the hearing shall be conducted in the presence of the Parties and shall be held in public.
- (2) The Committee may, of its own volition, or upon the application of a witness or any of the Parties, decide that persons not connected with the hearing should withdraw from the whole or any part of the proceedings, provided always that:
 - (a) a decision to exclude the public causes no prejudice to either Party;
 - (b) the particular circumstances of the case outweigh the public interest in holding a public hearing;
 - (c) the decision is made after hearing representations from both Parties.

- (3) In this paragraph, a person is not concerned with the hearing if that person is not-
 - (a) a member of the Committee;
 - (b) the Legal Adviser or the Medical Adviser to the Committee;
 - (c) the Clerk to the Committee;
 - (d) a Party or a representative of that Party;
 - (e) a witness;
 - (f) a shorthand writer;
 - (g) an audio technician;
 - (h) a translator;
 - (i) an interpreter.
- (4) Where the Health Procedure is to be followed, the Committee shall conduct its proceedings in private, in the presence of the Parties.
- (5) For the purpose of arriving at any decision in relation to the hearing, the Committee shall sit in private. However, the Committee shall announce any decision in public.

Representation and entitlement to be heard

- 10 (1) The Presenter and the Registrant shall be entitled to be heard by the Committee.
- (2) The Registrant may be represented by:
 - (a) barrister; or
 - (b) solicitor; or
 - (c) a representative from the Registrant's Trade Union; or
 - (d) a representative from the Registrant's Professional Body.
- (3) Where the Registrant is acting in person, he may be accompanied and advised by some other representative. Such representative, however, shall not be entitled to address the Committee, without permission.
- (4) A person who represents or accompanies the Registrant shall not be entitled to be called as a witness at the hearing.
- (5) The Committee may exclude from the whole or part of the hearing, any person whose conduct, in the opinion of the Committee, has disrupted or is likely to disrupt the hearing.
- (6) The Complainant may be present at the hearing and may be called to give evidence by any Party, or by the Committee, of its own motion.
- (7) Where the Complainant is to give evidence, the Complainant shall not be entitled to be present during the proceedings until after such evidence is given.
- (8) Subject to paragraph 20, where the Complainant has been called as a witness, the Parties shall have the opportunity to question the Complainant.

Evidence

- 11 (1) Subject to the advice of the Legal Adviser, the requirements of a fair hearing, and of relevance, the Committee may:
 - (a) admit evidence whether or not it would be admissible in a Court of Law;
 - (b) exclude evidence in order to ensure fairness to the Registrant and between the Parties.
- (2) The Committee may receive oral, documentary or other evidence of any fact or matter which appears to it to be relevant to its consideration of the case.
- (3) The Committee may of its own volition, request the Parties to provide documentation or request any person to give oral evidence, which it considers might assist it in determining the Formal Allegation against the Registrant.
- (4) The Committee may admit evidence adduced by a Party notwithstanding that such evidence has not been disclosed to the other side in advance of the hearing-
 - (a) if the Parties consent; or
 - (b) where, after consultation with the Legal Adviser, it is satisfied that:
 - (i) the admission of such evidence is necessary to ensure the fairness of the proceedings and outweighs any prejudice to the Party which has not previously seen such evidence; and
 - (ii) there is a good reason why such evidence was not previously disclosed.
- (5) The findings of fact and certification of conviction of any UK Criminal Court or the findings of a Judge in any UK Civil Court shall be conclusive proof of the facts or conviction so found.
- (6) The findings of fact by any of the regulatory bodies set out in SCHEDULE 4, shall be prima facie evidence of the facts so found.

Burden and standard of proof

- 12 (1) The burden of proof to prove the facts and Misconduct alleged in the Formal Allegation shall rest upon the Council.
- (2) The standard of proof shall be the balance of probabilities.

Adjournment of the hearing

- 13 (1) Subject to the requirements of a fair hearing, and after hearing representations from the Parties, the Committee may, at any stage of hearing, adjourn the proceedings.
- (2) Where the hearing has been adjourned, the Clerk shall, as soon, as practicable, notify the Parties, the Complainant and the Employer(s) if any, of the time or date fixed for the hearing to be resumed.

STAGE 1- PRELIMINARIES AND FINDINGS OF FACT

Attendance at hearing

- 14 (1) Where the Registrant fails to attend and is not represented at the hearing, the Chair shall:
- (a) require evidence that the Registrant has been served with the Notice of Hearing in accordance with these Rules, and that reasonable efforts have been made to inform the Registrant of the hearing; and
 - (b) inquire whether any reasons for the Registrant's non-attendance have been communicated to the Clerk or the Council.
- (2) Where the Committee is satisfied that the Notice has been duly served on the Registrant, and that reasonable efforts have been made to inform the Registrant of the hearing it may:
- (a) hear and determine the case in the absence of the Registrant; or
 - (b) adjourn the hearing and give directions.

Fitness to plead

- 15 (1) Where an issue arises as to the Registrant's fitness to plead, the Committee shall proceed under the Health Procedure and shall consider:
- (a) whether the Registrant can understand the issues in the case;
 - (b) whether the Registrant can appreciate the effect of any advice received from the Registrant's representatives if any;
 - (c) whether the Registrant can give instructions accordingly.
- (2) The Committee shall receive expert evidence and submissions on these issues.

- (3) Where the Committee determine that the Registrant is unfit to plead, they shall make an Order for suspension of the Registrant's registration from the Register, until such time as the Registrant becomes fit to plead.

Introduction of committee and reading of the formal allegation

- 16 (1) At the opening of the hearing, the Chair shall introduce the members of the Committee and the Parties.
- (2) The Chair shall ask the Registrant to confirm the Registrant's name and registration number.
- (3) The Clerk shall then read out the Formal Allegation against the Registrant.

Amendment of the formal allegation

- 17 (1) Subject to the requirements of a fair hearing, the Committee may amend the Formal Allegation at any stage prior to the finding of Misconduct.
- (2) The Committee shall first hear representations from the Parties, and take advice from the Legal Adviser, before deciding whether or not the Formal Allegation should be amended.

Admissions

- 18 (1) After the Formal Allegation has been read, the Chair shall ask the Registrant whether any facts (or convictions) alleged in the Formal Allegation are admitted, and whether the Registrant admits Misconduct.
- (2) Where any facts (or convictions) are admitted, the Chair shall announce that such facts (or convictions) have been found proved.
- (3) Where the Registrant admits the facts alleged, or the facts and Misconduct, the Presenter shall read out the agreed Statement of Facts.
- (4) Where the Registrant admits the facts but denies Misconduct, the Committee shall announce a finding on the facts and determine the issue of Misconduct in accordance with stage 2.
- (5) Where the Registrant has admitted Misconduct, the Chair shall announce a finding of Misconduct against the Registrant, and the Committee shall proceed to determine the issue of sanction in accordance with stage 3.
- (6) Where no admissions are made, or some facts remain disputed, the Presenter shall present the case against the Registrant to the Committee and adduce evidence in support of those facts which are not admitted.

Witnesses

- 19 (1) Witnesses shall be sworn or required to affirm.
- (2) The Committee may, on the application of the Party calling the witness, agree that the personal details of the witness shall not be revealed in public.
- (3) Subject to paragraph 20, witnesses shall be examined by the Party calling them and may then be cross-examined by the opposing Party. The Party calling the witness may then re-examine the witness.
- (4) Witnesses may then be questioned by the Committee, or by the Legal Adviser, with the leave of the Chair.
- (5) The Parties may then question the witnesses on matters arising out of the Committee's questions. The Party calling the witness shall question the witness last.
- (6) Any further questioning of witnesses shall be at the discretion of the Committee.
- (7) Witnesses shall not be allowed to attend or watch the proceedings until after they have completed giving evidence to the Committee and been formally released by the Chair.

Vulnerable witnesses

- 20 (1) The following shall be treated as vulnerable witnesses:
- (a) any witness under the age of 17;
- (b) any witness with a mental disorder;
- (c) any witness who is significantly impaired in relation to intelligence and social functioning;
- (d) any witness with physical disabilities who requires assistance to give evidence;
- (e) any Complainant or witness, where the Formal Allegation against the Registrant is of a sexual nature and the Complainant or witness was the alleged victim;
- (f) any witnesses who complain of intimidation.
- (2) Subject to the advice of the Legal Adviser, and upon hearing representations from the Parties, the Committee may adopt such measures as it considers necessary to enable it to receive evidence from vulnerable witnesses.
- (3) Measures adopted by the Committee may include, but shall not be limited to:
- (a) use of video links;
- (b) use of pre-recorded evidence as the evidence in chief of a witness, provided always that such witness is available at the hearing for cross-examination and questioning by the Committee;
- (c) use of screens;
- (d) use of interpreters (including signers and translators) or intermediaries.

- (4) Where the Formal Allegation against a Registrant is sexual in nature, and Complainant is the alleged victim, and where the Registrant is acting in person, the Registrant shall not be allowed to cross-examine the Complainant. Any questioning of the Complainant in these circumstances shall be undertaken by the Legal Adviser.

Registrant's evidence

- 21 At the end of the evidence presented by the Presenter, the Registrant may adduce evidence and witnesses in support.

Finding of facts

- 22 (1) The Committee shall then consider in private whether the facts in the Formal Allegation have been proved on the balance of probabilities.
- (2) The Chair will then announce in the presence of the Parties, the Committee's findings of fact. If no facts have been found proved, the case will be dismissed.
- (3) The Committee shall not be required to give reasons for its findings on the facts.

STAGE 2 - MISCONDUCT

Misconduct

- 23 (1) Where the Committee has found some or all of the facts proved, the Chair shall ask the Registrant whether, on the facts found proved, the Registrant admits Misconduct.
- (2) Where the Registrant admits Misconduct, the Committee shall then proceed to determine the issues of sanction in accordance with stage 3.
- (3) Where the Registrant denies Misconduct, the Parties shall make representations to the Committee and may adduce evidence on the question of Misconduct.
- (4) In deciding upon the issue of Misconduct, the Committee shall have regard to the Code of Practice issued by the Council under Section 62 of the Act.
- (5) The Committee shall consider in private whether, on the facts found proved, the Registrant has committed Misconduct and shall announce its finding on the issue of Misconduct before the Parties.
- (6) The Committee shall give reasons for its finding on the issue of Misconduct.
- (7) If the Registrant is found not to have committed Misconduct, the case will be dismissed and the hearing concluded.

STAGE 3 - MITIGATION

Mitigation

- 24 (1) Where the Committee finds that the Registrant has committed Misconduct, the Chair shall require the Presenter to provide the Committee with details of the Registrant's previous disciplinary record with the Council if any.
- (2) The Chair will then announce the sanctions available to the Committee and shall invite representations from the Registrant as to the sanction to be imposed.
- (3) Where the Committee is of the opinion that the finding of Misconduct may merit removal or suspension from the Register, the Chair shall inform the Registrant of this preliminary view, and shall invite the Registrant to make specific representations on both these sanctions.
- (4) The Registrant may then address the Committee in mitigation and may adduce references and testimonials, and may call character witnesses in support.
- (5) Where character witnesses are called, they may be questioned by the Presenter and the Committee.
- (6) Where the Registrant has chosen not to attend the hearing, the Registrant may provide details of mitigation in writing, in advance, to the Clerk. The Clerk shall provide such mitigation documents to the Committee at this stage.
- (7) After hearing the Registrant, the Committee shall decide, in private, what sanction it should impose.

Sanctions

- 25 (1) Upon a finding of Misconduct, the Committee may:
- (a) admonish the Registrant and direct that a record of the admonishment be placed on the Registrant's Entry in the Register, for a period of up to five years; or
- (b) make an Order suspending the Registrant's registration for a period not exceeding two years (' a Suspension Order'); or
- (c) make an Order for removal of the Registrant's registration from the Register (' a Removal Order').
- (d) revoke any Interim Suspension Order imposed by the Preliminary Proceedings Committee.
- (2) In deciding what sanction is to be imposed, the Committee shall take into account:
- (a) the seriousness of the Registrant's Misconduct;
- (b) the protection of the public;
- (c) the public interest in maintaining confidence in social care services; and
- (d) the issue of proportionality.
- (3) The Committee shall announce its decision on sanctions in public, and shall give reasons for its decision.
- (4) Any decision of the Committee shall take effect as soon as it is made.

Notice of Decision

- 26 (1) Within 7 days, after the conclusion of the hearing, the Clerk shall send a Notice of Decision to:
- (a) the Registrant;
 - (b) the Council;
 - (c) the Complainant; and
 - (d) the Registrant's Employer if any.
- (2) The Notice of Decision shall:
- (a) record any advice given by the Legal Adviser or the Medical Adviser;
 - (b) set out the Committee's findings of fact, and its decisions on Misconduct and sanction;
 - (c) specify the reasons for the Committee's decisions;
 - (d) where a Suspension Order has been imposed, set out the period of suspension;
 - (e) inform the Registrant of the right of appeal to the Care Standards Tribunal;
 - (f) inform the Registrant that any sanction imposed by the Committee took effect from the

Notes and transcript of the proceedings

- 27 (1) A person shall be appointed by the Council to take a verbatim note of the proceedings before the Committee.
- (2) Upon application, the Council shall send the Registrant and the Complainant a transcript of the verbatim note, of any part of the proceedings at which the Registrant or, as the case may be, the Complainant was entitled to be present.

Health Procedure

- 28 (1) Subject to the following provisions, the Health Procedure shall be the same as the Conduct Procedure and the foregoing provisions of this SCHEDULE shall apply.
- (2) The Committee shall sit in private.
 - (3) Subject to paragraph (4) below, in determining whether the Registrant has committed Misconduct at stage 2, and in deciding on the issue of sanction at stage 3, the Committee shall consider any medical reports or other medical evidence on whether the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health.
 - (4) The Committee shall not receive medical reports or other medical evidence unless the Registrant has consented to be examined and to allow such reports and evidence to be provided to the Committee.
 - (5) In determining the issue of Misconduct, the Committee may take into account a Registrant's refusal to be examined or to consent to reports on the Registrant's fitness to practise being provided to the Committee.
 - (6) If at any time during the hearing it appears to the Committee that the alleged Misconduct may not have been caused, or substantially contributed to, by the Registrant's physical or mental ill health, the Committee may cease to consider the allegation following the Health Procedure and instead follow the Conduct Procedure.

Publication of decisions

- 29 (1) The Council shall publish the Committee's findings of fact, and the Committee's determination, by such means as it considers appropriate, as soon as is reasonably practicable following any finding of fact and determination.
- (2) The Council may also at any time provide a copy of the Committee's findings of fact and the Committee's determination, to any of the regulatory bodies set out in SCHEDULE 4.

Resumed Hearings

- 30 (1) Where the Committee has imposed a Suspension Order, the Committee may, at the request of the Registrant, review the Order before the end of the period for which the suspension has been ordered.
- (2) The Committee shall seek advice from the Legal Adviser before deciding whether or not to review the Order.
 - (3) The Committee shall not review the Order unless there has been a material change of circumstances since the Order was imposed.
 - (4) The procedure at the resumed hearing shall be as follows:
 - (a) the Presenter shall outline the facts of the case and the circumstances in which the Suspension Order was imposed;
 - (b) the Registrant shall then make submissions as to why the Suspension Order should be revoked, and may adduce documents, and call witnesses in support.

- (5) Where the Suspension Order was imposed following the Health Procedure, the Committee may require the Registrant to provide up-to- date medical reports from a Medical Adviser nominated by the Council, at the Registrant's own expense.
- (6) Where the Suspension Order was imposed following the Health Procedure, the resumed hearing shall be held under the Health Procedure.
- (7) The Committee may, after reviewing a Suspension Order, revoke that Order.
- (8) At the conclusion of the resumed hearing, the Committee shall announce its decision, and the reasons for its decision, in public.
- (9) Within 7 days of the conclusion of the hearing, the Clerk shall send a Notice of Decision, containing the reasons for the Committee's decision to:
 - (a) the Registrant;
 - (b) the Council;
 - (c) the Complainant;
 - (d) the Employer if any.

Schedule 3 Proceedings before the Restoration Committee

Arrangement of Paragraphs

- 1 Interpretation
- 2 Documents to be provided to the Council
- 3 Documentation to be provided to the applicant
- 4 Notice of restoration hearing
- 5 Documents to be provided to the committee
- 6 Procedure at restoration hearing
- 7 Decision of the committee
- 8 Notice of decision.
- 9 Time limits for application
- 10 Barring order

Interpretation

- 1 (1) In this SCHEDULE -
 “Applicant” means a former Registrant applying for restoration to the Register, following a Removal Order imposed by the Conduct Committee.
- (2) An application for restoration shall be deemed to be an initial application for registration under Sections 57 and 58 of the Act, and should comply with the provisions of the General Social Care Council (Registration of Social Workers) Rules 2003.

Documents to be provided to the Council

- 2 In addition to documents specified in Rule 4 of the General Social Care Council (Registration of Social Workers) Rules 2003, the Applicant may send to the Council any report, statement or other document which, in the Applicant’s opinion, supports the application for restoration.

Documents to be provided to the applicant

- 3 (1) As soon as practicable after receipt of a completed application for restoration to the Register, the Clerk shall send the Applicant:
 - (a) a copy of the transcript of the Conduct Committee hearing at which the Order for removal from the Register was made;
 - (b) any documents to be relied on by the Council;
 - (c) a Notice of Hearing before the Restoration Committee; and
 - (d) a copy of these Rules.

Notice of restoration hearing

- 4 (1) The Notice of Restoration Hearing shall-
 - (a) state the date, time and venue of the hearing;
 - (b) inform the Applicant of the right to attend the hearing and make oral submissions to the Committee or to be represented by:
 - (i) solicitor; or
 - (ii) barrister; or
 - (iii) a representative from the Applicant’s Trade Union; or
 - (iv) a representative from the Applicant’s Professional Body.

- (2) Where the Registrant is acting in person, he may be accompanied and advised by some other representative, however, shall not be entitled to address the Committee, without permission.
- (3) The hearing shall not be fixed for any date earlier than 28 days after the posting of the Notice of Restoration Hearing, except with the agreement of the Applicant.
- (4) A copy of the Notice of Restoration shall be provided to the Council by the Clerk.

Documents to be provided to the committee

- 5 7 days before the hearing, the Clerk shall send to the Committee, copies of:
- (a) the Notice of Restoration Hearing;
 - (b) the application for restoration and any documents provided by the Applicant in support of the application.

Procedure at a restoration hearing

- 6
- (1) Subject to paragraphs (2) and (3) below, proceedings of the Restoration Committee shall be held in public.
 - (2) Proceedings of the Restoration Committee shall be held in private where the Order for removal from the Register was made under the Health Procedure.
 - (3) The Restoration Committee, upon the application of the Parties or of a witness, or of its own motion may sit in private, provided always that:
 - (a) no prejudice is caused to the Applicant;
 - (b) the particular circumstances of the case outweigh the public interest in holding a public hearing; and
 - (c) the decision to sit in private is made after hearing representation from the Parties.
 - (4) Notwithstanding the above, the deliberations of the Committee shall be held in private.
 - (5) The Presenter shall outline the history of the Registrant's case and the circumstances in which the Order for removal of the Registrant's registration was made.
 - (6) The Presenter may adduce to the Committee any documents which were exhibited to the Conduct Committee which made the Removal Order; and any documents which have since come into the possession of the Council and which relate to the Applicant's good character; conduct; competence; and health, and may call witnesses to give testimony on these issues.
 - (7) The Applicant or the Applicant's representative shall then address the Committee as to the reasons why an Order for restoration should be made.
 - (8) The Applicant may adduce evidence and call witnesses in support of the application for restoration.
 - (9) Witnesses shall be examined by the Party calling them, and may be questioned by the other Party, by the Committee, and by the Legal Adviser.
 - (10) The Committee shall obtain advice from the Legal Adviser before determining the application for restoration.

Decision of the committee

- 7 (1) The Committee shall determine an application for restoration in two stages.
- (2) The Committee shall first consider whether the Applicant should be restored to the Register, having regard to:
 - (a) the reasons why the Applicant was removed from the Register;
 - (b) evidence as to the Applicant's current good character, competence and health;
 - (c) evidence as to the Applicant's conduct since removal from the Register;
 - (d) the protection of the public; and
 - (e) the public interest in maintaining confidence in social care services.
- (3) Where the Committee is minded to restore an Applicant's registration, it shall then consider whether the Applicant's registration should be made subject to conditions for a specified period not exceeding 3 years.
- (4) Where the Committee is minded to impose conditions on the Applicant's registration, it shall invite specific representations from the Applicant before making its decision.
- (5) in deciding whether to restore an Applicant's registration, and if so, whether an Applicant's registration should be made subject to conditions, the Committee shall take into account the principle of proportionality.
- (6) The Committee shall give reasons for its decision.

Notice of decision

- 8 (1) Within 7 days of the conclusion of the proceedings, the Clerk shall send a Notice of Decision to the Applicant and to the Council.
- (2) The Notice of Decision shall:
 - (a) record any advice given by the Legal Adviser and the Medical Adviser;
 - (b) set out the Committee's decision;
 - (c) specify the reasons for the Committee's decision;
 - (d) clearly set out any conditions imposed on the Applicant's registration;
 - (e) set out the Applicant's right of appeal to the Care Standards Tribunal.

Time limits for application

- 9 No application for restoration to the Register under this rule shall be made to the Restoration Committee:
- (a) within 3 years from the date of removal; or
 - (b) in any period of 12 months in which an application for restoration has already been made by or on behalf of the person who has been removed.

Barring order

- 10 (1) Where an Applicant has made a previous unsuccessful application for restoration and the Committee have refused the current application for restoration, the Committee may Order that the Applicant's right to make any further restoration applications be suspended indefinitely ("a Barring Order").
- (2) The Committee shall not make a Barring Order until it has heard representations on this issue from the Applicant.
- (3) In deciding whether or not to make a Barring Order, the Committee shall take into account the principle of proportionality.
- (4) Where a Barring Order has been made, the Applicant may apply to the Committee, in writing, for permission to make any further applications for restoration and the Committee shall grant such an application if the Applicant provides evidence to the Committee demonstrating that there has been a change in the circumstances which led to the decision to remove the Applicant from the Register such that the Committee, acting reasonably, should consider the application for restoration.

Schedule 4 Approved Regulatory Bodies

- 1 Care Council for Wales
- 2 Scottish Social Services Council
- 3 Northern Ireland Social Care Council
- 4 General Medical Council
- 5 General Teaching Council
- 6 General Teaching Council for Northern Ireland
- 7 General Teaching Council for Wales
- 8 General Teaching Council Scotland
- 9 Health Professions Council
- 10 Nursing and Midwifery Council
- 11 General Dental Council
- 12 British Psychological Society

Explanatory Notes

Introduction

- 1 These notes explain the provisions of the General Social Care Council (Conduct) Rules 2003. The notes are not intended to replace or interpret the rules. Interpretation is properly the role of the courts in relation to individual cases.

Background

- 2 The Care Standards Act 2000 (The Act) gives the General Social Care Council (GSCC) a duty to maintain a register of social workers and promote high standards of conduct and practice among social workers. In future, it is intended that we will register and regulate other groups in the social care workforce. The Act also gives the GSCC powers to make rules governing conduct.
- 3 These notes set out the contents of the rules part by part.

Explanatory Notes

Part I – Introduction, Rules 1 to 3

- 4 Part I of the rules says that the rules come into force on 1 April 2003. They will remain in force until they are replaced by new rules. Part I also sets out a number of definitions explaining how certain words or phrases are used in the rules. Finally, this Part requires the GSCC to serve notices on people by sending them and any accompanying materials by recorded delivery or registered post.

PART II – Committees, Rules 4 to 11

- 5 Part II of the rules states that the GSCC must establish a Preliminary Proceedings Committee, a Conduct Committee and a Restoration Committee. It sets out the functions of each committee, and refers to Schedules 1 to 3 to the Rules where the procedures of each committee are set out. Part II also covers the membership and quorum of the committees and defines how the committees will vote. Finally, it covers the roles of the Legal Adviser, the Medical Adviser and the Clerk to the committee.

- 6 In detail, Rule 5 specifies the duties of the Preliminary Proceedings Committee. It states that the Preliminary Proceedings Committee must consider any complaint or complaints against registrants that have been referred to it. (Part III explains when complaints will be referred to it by the GSCC). It must then decide whether to refer the complaint to the Conduct Committee or whether no further action should be taken in respect of the complaint.
- 7 Rule 5 also states that when the Preliminary Proceedings Committee decides to refer a complaint to the Conduct Committee it should decide whether to do so under the Conduct Procedure or the Health Procedure. The Committee is required to refer issues under the Health Procedure if it considers that the alleged misconduct was caused, or substantially contributed to, by the Registrant's ill health.
- 8 Rule 5(4) states that the Preliminary Proceedings Committee can also consider whether an Interim Suspension Order should be imposed on the grounds that it is either necessary to protect the public, or is in the public or the Registrant's interests. The initial duration of such an Order should not exceed six months, and the total period of any interim suspension may not be more than two years.
- 9 Rule 5(7) sets out the duty of the Conduct Committee to consider any formal allegations of misconduct or criminal convictions that have been referred to it. The Conduct Committee has to decide whether the Registrant's conduct has been such that his or her suitability to remain on the Register is called into question, and if so, what sanction should be imposed. If the Registrant is considered unfit to plead in cases where there is a formal allegation of misconduct, the Conduct Committee is also required to decide whether the Registrant should be suspended from the Register.
- 10 Rule 5(8) specifies that the duties of the Restoration Committee are to consider any application for restoration referred to it and to decide whether the Registrant should be restored to the Register or not. If it decides to restore the Registrant it can also decide to place conditions on the Registrant's registration.
- 11 Rule 6 states that the procedures each committee must follow are set out in Schedules 1 to 3 (see paragraphs [26] to [82] below).
- 12 Rule 7 deals with the membership and quorum of committees. Each committee must consist of three or five members, appointed by the GSCC from a pool of available committee members for each individual committee. The quorum of all three Committees is three members and each committee is to have a majority of lay members. Lay members are people who have not been a social care worker or involved in the training, education, appointment, employment, supply, supervision, monitoring or representation of social care workers within five years of appointment to the committee. The Chair of each committee must be a lay member. Rule 7 also states that a member who has experience or understanding of the area of social work in which the Registrant works must be appointed to the Committee considering the case.
- 13 Members are appointed for up to four years but are eligible for a further appointment of up to four years. No member is permitted to sit on any hearing of a case that they have previously considered. The exception to this is members of the Preliminary Proceedings Committee who may consider a case at both the initial and subsequent hearing by the Preliminary Proceedings Committee.

- 14 Rule 8 deals with the voting of committees. It states that decisions of committees will be made by a simple majority vote and that the Chair is not allowed to exercise a casting vote. Any abstention will be considered to be a vote in favour of the Registrant.
- 15 Rule 9 describes the role of the Legal Adviser. It provides that a Legal Adviser should be present at every Committee, including during the members' deliberations but that the Legal Adviser is not allowed to vote. The Legal Adviser's duty is to advise each committee on questions of law that arise and also to ensure that the proceedings are conducted fairly. Records of advice given by the Legal Adviser must be kept and the Parties should be given the opportunity to comment on it before the committee makes any decision.
- 16 Rule 10 deals with the role of the Medical Adviser. It states that a Medical Adviser should be appointed to advise whenever committees are considering cases referred by Preliminary Proceedings Committees under the Health Procedure. Records of advice given by the Medical Adviser must be kept if the Registrant is not present and also during private deliberations. The Parties should be given the opportunity to comment on any advice given by the Medical Adviser. The Medical Adviser is not allowed to vote.
- 17 Rule 11 states that a Clerk should assist each Committee and be responsible for administrative arrangements for the hearing. The Clerk will not take part in the decision-making of the Committee.

PART III – Complaints

- 18 Part III of the rules sets out the procedure to be followed by the GSCC on receipt of information about a Registrant.
- 19 An officer of the Council is required to consider whether information received about a social care worker:
 - is about an individual who is registered with it;
 - makes a specific allegation or allegations of misconduct by that individual; or
 - indicates that the individual has committed a criminal offence.

In such cases, the rules specify that the issue should be dealt with as being capable of being a complaint.

- 20 The Council is permitted by the rules to make preliminary enquiries to establish whether the criteria set out in paragraph 19 are fulfilled, including instructing solicitors to investigate and seeking further information or clarification from the individual concerned and his or her employer.
- 21 The person providing the information ('the Complainant') is then advised whether his or her complaint is capable of being a complaint and, if so, is asked to confirm that he/she wishes to take the complaint forward to the next stage.
- 22 If the Complainant does not wish to proceed with the complaint, the rules allow the Council to take the complaint forward to the next stage, if this is in the interests of public protection. The Council may also defer the investigation or referral of a complaint to the Preliminary Proceedings Committee while a police, statutory or tribunal inquiry or an inquiry by listed regulatory bodies is continuing.
- 23 If a complaint is made anonymously, the Council is required to investigate it and decide whether to refer the matter to the next stage, in which case the Council acts as the Complainant.

PART IV – Removal and Suspension from the Register

- 24 Part IV of the rules sets out the circumstances in which a Registrant may be removed or suspended from the Register.
- 25 The circumstances are as follows:
 - the Conduct Committee makes a finding of Misconduct against the Registrant;
 - the Registrant has been found unfit to plead;
 - the Registrant has been convicted at any time in the United Kingdom (UK) of a criminal offence or has been convicted at any time elsewhere of an offence which would be criminal in the UK (whether the person was registered at the time of the offence or not).

Schedules

SCHEDULE 1 – Procedure of the Preliminary Proceedings Committee

- 26 Schedule 1 deals with the procedure of the Preliminary Proceedings Committee, and is referred to in Rules 5 and 6.
- 27 Paragraphs 2 and 3 specify that the Preliminary Proceedings Committee normally meets in private to consider whether the complaint calls into question the suitability of the individual to remain on the register.
- 28 When, however, the Committee is considering an Interim Suspension Order, the individual concerned may ask for a public hearing.
- 29 If the Committee considers that the complaint does call into question the suitability of the individual to remain on the register, the Committee is required to consider the issue in more detail at a second Committee meeting.
- 30 Paragraph 4 of Schedule 1 deals with the 'Notice of Referral'. The individual about whom the complaint has been made ('the Registrant') is notified by this notice of the nature of the complaint and that a more detailed consideration will now take place.
- 31 He or she is also sent copies of the complaint and supporting documents, and a copy of the GSCC Conduct Rules.
- 32 The Registrant is also invited to make written representations that address the issue of conduct that is being considered. This allows him or her to present his/her own views to the Committee.
- 33 If an Interim Suspension Order is to be considered at the second hearing, the registrant is informed of this and has a right to give evidence in person, call witnesses and have legal representation.
- 34 Paragraph 5 deals with the second consideration by Committee. At the second meeting, the Committee decides whether to refer the case to the Conduct Committee, to adjourn the matter to allow further investigation, or to take no further action.
- 35 An Interim Suspension Order may also be imposed if this is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the Registrant. This order can be reviewed after three months upon the request of either the registrant or the Council.
- 36 Both parties, the Registrant's employer and the Complainant are informed of the decisions made and the reasons for them.

SCHEDULE 2 – Procedure of the Conduct Committee

- 37 Schedule 2 to the rules deals with the procedure of the Conduct Committee, and is referred to in Rule 2, and paragraphs 10 and 11 of Schedule 1.
- 38 Referral to the Conduct Committee can be made under either the Health Procedure or the Conduct Procedure.
- 39 Under the Health Procedure, the Preliminary Proceedings Committee asks the Registrant to agree to a medical examination by a medical adviser appointed by the Council, who subsequently reports to the Conduct Committee.
- 40 Paragraph 2 refers to the pre-hearing review. No later than 28 days after a referral to the Conduct Committee, the Council is required to convene a pre-hearing review, which is attended by representatives of the Council and the Registrant and conducted by the Legal Adviser.
- 41 The purpose of this review is for the parties to discuss the documentation surrounding the case and any arrangements concerning evidence and witnesses required for the proper conduct of the hearing.
- 42 A date is then set for the hearing and the Clerk to the Committee gives notice of this to the parties and also to the Complainant and the Registrant's employer.
- 43 Paragraph 8 refers to the procedure at the hearing, which is decided by the Committee, subject to the requirements of a fair hearing and any matters specified in the conduct rules.
- 44 Paragraph 9 states that the rules require hearings under the Conduct Procedure to be held in public, unless a witness or the parties request and the Committee agrees or the Committee itself decides that there should be a private hearing.
- 45 Hearings are always held in private when the Health Procedure is being followed.
- 46 Paragraph 10 sets out rights to representation and entitlement to be heard. Both the person presenting the case for the Council and the Registrant are entitled to be heard in person by the Committee. The Registrant is entitled to be represented by a barrister, solicitor or representative of a trade union or professional body. The definition of a presenter for the Council includes a solicitor or barrister engaged by the Council.
- 47 Paragraph 11 states that the Committee can consider any relevant evidence. Any finding by a criminal or civil court located in the UK is taken to be conclusive evidence of the truth of that finding and any finding of fact by a regulatory body listed in Schedule 4 is to be considered prima facie evidence of that finding. Reasons need not be given for findings of fact.
- 48 The burden and standard of proof, as set out in paragraph 12, is that a decision is made on the basis of the evidence as to whether the complaint has been proved by the Council on the balance of probabilities.

Stage 1 – preliminaries and findings of fact

- 49 Paragraph 14 states that the hearing can take place in the absence of the Registrant if he or she fails to attend after reasonable efforts have been made to inform him or her of the meeting.
- 50 If the Registrant is considered unfit to plead on the basis of expert evidence, paragraph 15 requires that his or her registration is suspended until he or she becomes fit.
- 51 At the beginning of the hearing the Chair introduces members of the Committee and the Parties and the Registrant is asked to confirm his/her details. The formal allegations are also read out, but may be amended, prior to a finding of misconduct, upon representations from the parties.
- 52 The Registrant is then asked to confirm whether he/she admits any of the alleged facts and misconduct. Any facts admitted are announced as proved. If all the alleged facts are admitted, the Committee considers the question of misconduct. If misconduct is also admitted, the Committee considers the question of sanctions. Where some or all the facts remain in dispute, the Presenter for the Council presents the case against the Registrant, calling evidence in support.
- 53 At the end of the evidence presented by the Presenter, the Registrant presents his/her evidence and may call witnesses in support.
- 54 The Committee then decides in private whether the facts have been proved on the balance of probabilities and the Chair announces its decision on this in the presence of the parties. If no facts have been proved, the case is dismissed. No reasons need to be given at this stage.
- 55 Paragraphs 19 and 20 explain the procedures for questioning witnesses and how vulnerable witnesses shall be treated.
- 56 Paragraph 19 explains that witnesses shall be sworn in or required to affirm. They are then questioned by the party calling them and by the opposing party. The witnesses can then be questioned by Committee members, if they so wish or by the Legal Adviser, at the Chair's discretion.
- 57 Witnesses need not give their personal details, if an application to this effect is made by the party calling them and is agreed by the Committee.
- 58 Paragraph 20 allows special measures to be adopted to receive evidence from vulnerable witnesses. These include the use of video links, use of pre-recorded evidence and screens and use of interpreters. Vulnerable witnesses include witnesses under the age of 17, witnesses with a mental disorder, witnesses who are significantly impaired in relation to intelligence and social functioning, witnesses with physical disabilities who require assistance to give evidence, witnesses who are the alleged victims when the allegations are of a sexual nature and witnesses who complain of intimidation. In addition, when allegations are of a sexual nature, the Complainant is the alleged victim, and the Registrant is acting in person, the Registrant is not permitted to question the Complainant.

Stage 2 – Misconduct

- 59 Paragraph 23 states that if the Committee decides that some or all of the facts of the complaint have been proved, it then goes on to consider whether these facts amount to misconduct, unless an admission of misconduct is made at this stage. The Committee is required, in making its decision, to take account of the Council's Codes of Practice for Social Care Workers.
- 60 The Committee is required to give reasons for the finding on the issue of misconduct.
- 61 If the Health Procedure is being followed, medical reports and other medical evidence are considered in reaching a finding, if the Registrant has consented to this.

Stage 3 – Mitigation

- 62 Paragraph 24 requires that, if a finding of misconduct is made, the Registrant's previous disciplinary record with the Council is then considered.
- 63 The Chair then announces the sanctions available to the Committee and invites representations from the Registrant as to the one which should be imposed. If the Committee thinks that removal or suspension might be appropriate sanctions, the Registrant is informed of this and asked to make specific representations on these sanctions.
- 64 The Registrant can ask for mitigating circumstances to be taken into account, call character witnesses and produce references and testimonials. Character witnesses can be questioned by the Presenter and the Committee. If the Registrant has decided not to attend the hearing, he/she can provide details of mitigation in writing, in advance, to the Clerk, who would present them at this stage.

Sanctions

- 65 The Committee then decides, in private, what sanctions should be imposed. Paragraph 25 states that the possible sanctions are:
- an admonishment, which remains on the registrant's register entry for a period of up to five years;
 - a Suspension Order for a period of up to two years; or
 - a Removal Order, which will end registration.
- 66 Interim Suspension Orders imposed by the Preliminary Proceedings Committee may also be revoked at this stage.

- 67 In reaching a decision on sanctions, the Committee is required to take into account:
- The seriousness of the Registrant’s misconduct;
 - The protection of the public;
 - The public interest in maintaining confidence in social care services;
 - The issue of proportionality; and
 - Any medical reports or other medical evidence (if the Health Procedure is being followed).
- 68 The decision of the Committee on sanctions is given in public and reasons are given for it. Any decision reached takes effect immediately.
- 69 Paragraph 26 explains that a Notice of the Decision is then sent to the Registrant, the Council, the Complainant and the Registrant’s employer.
- This notice includes information to the registrant of his or her right to appeal to the Care Standards Tribunal.
- 70 Paragraph 27 states that a verbatim record of the proceedings must be taken by a person appointed by the Council and that a transcript of those parts of the proceedings at which they were entitled to be present shall be sent to either the Registrant or to the Complainant upon request.
- 71 Paragraph 29 also requires the Council to publish the Committee’s findings of fact and the Committee’s determination.
- 72 Paragraph 30 permits a subsequent review to take place of a Suspension Order by means of a Resumed Hearing. This Hearing takes place, at the Registrant’s request and the Committee’s discretion, when there has been a material change in circumstances.

Schedule 3 – Proceedings before the Restoration Committee

- 73 Schedule 3 to the rules deals with the subsequent review of Removal Orders on application from the ex-Registrant. This application is made by submission of a new application form for registration. Additional, supporting documentation may also be submitted.
- 74 As soon as practicable after receipt of a new application, the Clerk to the Restoration Committee sends the Ex-Registrant a copy of the transcript of the Conduct Committee hearing, any documents to be relied upon by the Council, a Notice of Hearing before the Restoration Committee and a copy of the conduct rules.
- 75 Paragraph 4 states that the ex-Registrant is entitled to attend a Restoration Committee hearing and to be represented by a solicitor, barrister or representative of the ex-Registrant’s trade union or professional body.
- 76 Proceedings are held in private if the Health Procedure was used in the previous Conduct Committee proceedings or upon an application by the parties or a witness and at the discretion of the Restoration Committee.

- 77 Paragraph 6 sets out the procedure at the Restoration Committee hearing. It states that the Presenter for the Council first outlines the circumstances in which the Removal Order was made, providing the Committee with relevant documents. The Presenter also submits any documents which have since been obtained by the Council and which relate to the Ex-Registrant's good character, conduct, competence and health. He/she can also call witnesses. The Ex-Registrant then presents his/her case for restoration, submitting evidence and calling witnesses in support of it.
- 78 In a Restoration Committee hearing, as set out in paragraph 7, the Committee decides whether the ex-Registrant's name should be restored to the Register having regard to:
- the reasons why the individual was removed from the Register;
 - evidence as to the individual's current good character, competence and health;
 - evidence as to the individual's conduct since removal from the Register;
 - the protection of the public; and
 - the public interest in maintaining confidence in social care services.
- 79 Reasons are given for the decisions reached and recorded in a Notice of Decision sent to the ex-Registrant and the Council.
- 80 Conditions can be imposed by the Restoration Committee on the individual's re-registration for a specified period not exceeding three years, taking into account proportionality.
- 81 Paragraph 9 states that an ex-Registrant can ask for his or her name to be restored to the Register three years or more after it has been removed by the decision of the Committee but not more than once every twelve months.
- 82 Paragraph 10 also states that where an applicant to the Register has made a previous unsuccessful application for restoration and the Committee has refused the current application for restoration, the Committee may make a Barring Order providing that the ex- Registrant's right to make any further applications to be restored to the Register to be suspended indefinitely. The Committee must, however, hear representations from the ex-Registrant on this issue and take into account the principle for proportionality. It must also allow a further application for restoration, even when a Barring Order is in place, if the ex-Registrant can demonstrate a change in circumstances.

SCHEDULE 4 – Approved Regulatory Bodies

- 83 Schedule 4 to the rules is referred to in Rule 12 and paragraphs 11 and 29 of Schedule 2; it is a list of approved regulatory bodies, whose own investigations may be completed before the GSCC investigates a registrant's conduct and whose findings of fact are treated as prima facie evidence in conduct hearings.