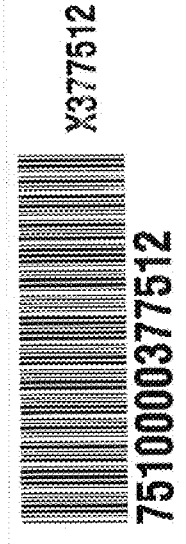
FRW/121/03

Barton.

Code A

KEY DOCS

FILE.



THE BRIDGE ST PRACTICE

Code A

Our Ref; SPD/CAS

Date: 5th June 2009

PRIVATE & CONFIDENTIAL

FAO Rachel Cooper
Field Fisher Waterhouse
27th Floor
City Tower
Piccadilly Plaza
MANCHESTER
M1 4bd

Dear Sirs

RE: MRS LYNDA MARION WILES – Code A
GMC – DR BARTON – CONFIRMED FITNESS TO PRACTISE PANEL HEARING – 8/6/09

Thank you for your letter dated 4th June 2009 regarding our patient Mrs Lynda Wiles and your request for medical details in connection with her attendance at the forthcoming Fitness to Practise Panel Hearing on Monday 8th June 2009 where she is due to give evidence.

I can confirm that she attended the Surgery on Monday 1st June 2009 with stress related problems for which she is seeking treatment as well as high blood pressure. She is very adamant that she felt that attending this hearing would be detrimental to her health and really does not wish to do so. Of note I have her permission to write to yourself confirming this.

I therefore feel that in my opinion that her attendance to attend the Fitness to Practise Panel Hearing as a witness would be of detriment to her anxiety and that she is not fit to attend.

I trust this information is helpful.

Yours faithfully

DR SUSAN P DALE

GMC and Dr Barton
Supplementary Report on Arthur Cunningham (Patient G)

Professor Gary A Ford, FRCP
Consultant Physician

2 June 2009

GMC and Dr Jane Barton
Patient G

1. This report is supplementary to my previous report dated 21 April 2009 and is made for the purpose of correcting drafting errors.

2.

Section 2 line 4"	... service I undertook research into the effects of drugs in older people." changed to "....service. I undertake research into the effects of drugs in older people."
Section 5 line 1	"I have no major changes to make.." corrected to " I have two changes to make.."
Section 6	*As required prescription* "Oramorph 2.5-10mg" corrected to "Oramorph 5-10mg"
Section 9 line 1	"Although review of the notes suggests it was clear that Patient G.." corrected to "Although review of the notes suggests Patient G.."
Section 14 line 4	"...of the Responsible Consultant,.." corrected to "... of the responsible Consultant, .."
Section 17 line 5	"I consider the prescription and administration of." changed to "I consider the prescription of...."

3. I have reviewed the witness statement of Dr Code A (dated 25 April 2005) in which he recorded the cause of death as bilateral bronchopneumonia and his opinion that Patient G's death was due to natural causes. No post mortem drug analyses were reported as being undertaken. I have not changed my opinion stated in section 16 of my report dated 21 April 2009 which was as follows: *"In my view it is likely that Patient G died from midazolam and diamorphine induced respiratory depression in combination with bronchopneumonia. In my opinion it is very likely that the administration of midazolam and diamorphine at the doses used led to him dying earlier than would have been the case had he not received these drugs."*

4. I have been asked to comment on the appropriateness of the prescriptions by Dr Barton on 25 September 1998 of diamorphine 40-200mg/24hr and midazolam 20-200mg/24hr. A previous prescription by Dr Barton had written a prn (as required) prescription for diamorphine 20-200mg/24hr and midazolam 20-80mg/24hr on 21 September. This prescription on 25 September did not change the maximum dose of diamorphine that could be administered but set a lower dose of 40mg/24hr to be administered by nursing staff. The prescription on 25 September set a lower dose of 20mg/24hr midazolam to be administered by nursing staff and increased the maximum dose of midazolam that could be administered from 80mg/24hr to 200mg/24hr.

5. The medical records do not record the reasons why Dr Barton made these changes to the prescription, and it is difficult to understand why the original prescription was changed by Dr Barton. Dr Barton recorded in the notes on 24 September that Patient G's pain was *"just controlled"* when receiving 20mg/24 hr diamorphine. I consider the prescription of diamorphine on 25 September was in too wide a dose range and hazardous. I consider the prescription of midazolam on 25 September was inappropriate, in too wide a dose range and excessively high. The medical and nursing notes do not record that Patient G had uncontrolled restlessness on 24 or 25 September and no justification is recorded in the medical notes for increasing the administered dose of midazolam from 60mg/24hr to

80mg/24hr and then 100mg/24hr. The Wessex Protocols recommended a dose range of 10-60mg/24hr for terminal restlessness. The prescription of midazolam up to a dose of 200mg/24hr was inappropriate and excessively high and not indicated by the information recorded in the medical records. If Patient G was deteriorating and experiencing increasing pain and restlessness this should have led to Dr Barton examining Patient G and recording in the medical notes the cause of any deterioration and the rationale for increasing the dose of diamorphine and midazolam administered by nursing staff. The information in the medical notes does not contain any record of such assessment taking place on 25 or 26 September.

6. I understand my duties as an expert, as set out at paragraph 57 of my Generic Report.

I believe that the facts I have stated in this report are true and that the opinions I have expressed are correct.

.....

GARY A FORD

0 3 JUN 2009

Langdale Nursing Home

From: Watson, Adele Code A
Sent: 19 May 2009 10:44
To: langdale Code A
Subject: GMC - Dr Barton - Your witness statement
Attachments: Code A statement - 10096537_1.PDF; Production statement of Code A 19.5.09 - 10096441_1.DOC

Dear Code A

Thank you for agreeing to provide a statement in relation to this matter.

As discussed, I have attached a copy of your police statement and a copy of a draft witness statement which I have prepared on your behalf. I have incorporated the change you wanted to make in relation to your responsibilities at Langdale, but if you would like to make any further additions or amendments please feel free to do so.

Once you are happy with your statement I would be grateful if you could sign, date and return to me in the post or via email (with an electronic signature). If you have any questions about your statement, or would like to discuss the case in more detail please do not hesitate to contact me.

We will inform you in due course if you are required to attend the GMC hearing in London.

Thank you for your assistance. I look forward to hearing from you.

Kind regards

Adele Watson | Paralegal
for Field Fisher Waterhouse LLP

Code A

Consider the environment, think before you print!

Field Fisher Waterhouse LLP [illegible]
Tel [illegible] Fax [illegible]
E-mail Web CDE

Tel: 1 800 330 5791 **Fax:** +44 1273 224040 **Email:** info@eyenetwork.com
Victoria House, 125 Queens Rd, Brighton, BN1 3WB, UK

Videoconference Booking Request (Eyenetwork Enquiry Ref# 38792)

(Please fill in or amend as appropriate then click the Send form button at the end of the page.)

Company to be invoiced:	Field Fisher Waterhouse LLP Manchester	**Contact name:**	
Address line 1:	27th Floor,city Tower	**City:**	
Address line 2:	Piccadilly Plaza	**Post code:**	
Telephone:	+44 (0)161 238 49	**Fax:**	
Email:	Code A		
Purchase order:		**VAT no. (for EU countries**	

1. Conference date: 12/06/2009

2. Where do you want us to book a room?

Details of Eyenetwork Studio 1

City :	Code A	**Start time:**	16:00	**End time:**	19.30
How many people will go to our room?	1	**Names:**	Code A		

Details of Eyenetwork Studio 2

City :		**Start time:**		**End time:**	
How many people will go to our room?		**Names:**			

3. Where will we connect to?

Details of private studio 1 or bridge

City:	Manchester	**Start time:**	09:00	**End time:**	12:30

Connecting site details

Company:	General Medical Counc	**Address:**	Regent's Place, 350 Euston Road,		
City:	London NW1 3JN	**State:**			
Contact name:	Code A	**Phone:**	Code A	**Studio phone:**	Code A
Email:				**Equipment type:**	Polycom
ISDN Nos.	Due to security reasons - the GMC dial out only			**IP Address:**	

4. Other details

Who dials out? Private site

What speed will you connect at? ○ 128kbs ○ 256kbs ◉ 384kbs ○ 512kbs

Will you use IP or ISDN ○ IP ◉ ISDN

Other requirements (subject to availability): document camera, DVD, PC Connection or Catering. Please write ir below.

Comments

I understand that all bookings are placed as per Eyenetwork's standard Terms and Conditions. Receipt of this complete means that I accept liability for all charges incurred by Eyenetwork on my behalf in relation to the above mentioned vide understand that the requested videoconference is not booked until I receive a Booking Confirmation from Eyenetwork.

☐ Tick to accept Terms and Conditions

Authorised by: Rachel Cooper **Title:** Miss

Date: 05 June 2009 Send form >>

Tel: 1 800 330 5791 **Fax:** +44 1273 224040 **Email:** info@eyenetwork.com
Victoria House, 125 Queens Rd, Brighton, BN1 3WB, UK

Thank you. If you have any questions or queries contact us on the numbers above.

Cooper, Rachel

From: bookings@solmelia.com
Sent: 02 June 2009 21:54
To: Cooper, Rachel
Subject: Booking confirmation - Code A Meliá White House

Sol Meliá HOTELS & RESORTS

Confirmed booking

Lowest Online Rate. Guaranteed. - No booking fees - Maximum security and confidentiality

Booking reference number: Code A

Meliá White House
Albany Street, Regents Park
NW1 3UP-London,(GREAT BRITAIN)
Telephone: (44) 207 3913000
Fax: (44) 207 388 0091

Directions to the hotel

Arrival date:	14/06/2009	4 nights
Departure date:	18/06/2009	
Check-in time:	After 3 P.M.	
Check-out time:	Until 12 P.M.	

*For specific requests at check-in, please contact the hotel

Cardholder:	Miss Rachel Cooper
Rooms:	1 Room for 1 adult
Room type:	Classic room, 1 person
Board basis:	Room only
Total cost:	552,00 GBP (Includes taxes)

Room 1:	120,00 GBP
Daily rate:	120,00 GBP
nights:	x4 nights
Total price	480,00 GBP
National taxes 15,00%:	72,00 GBP
Local taxes (Included):	--
TOTAL COST (sales taxes included):	552,00 GBP (sales taxes included)

Rate type booked: Best Available Rate

Conditions of rate booked: Best Available Rate
-If you choose our half board rates you will enjoy a dinner in our international buffet, including live show cooking and roast station. Offer subject to a limited share of rooms.The prices and the conditions offered can be different at each moment, even if you request the same dates. Should you modify your booking please always check the new price applied before confirming the changes.

Booking guarantee and form of payment:
This booking has been guaranteed by a credit card with the last four numbers 7867
The cost of this booking will not be charged to your credit card (payment should be made when you leave the hotel), except when guests do not arrive at the hotel on the expected arrival date, in which case a charge will be made according to the rate cancellation conditions. For bookings which require pre-payment, a charge will be made to the credit card number given.(see rate conditions).

Changes or cancellation of this booking:
If cxl after 4PM arr day or no show 1NT only
If you need to cancel your booking, you may do so online by clicking here.

To change or cancel this booking by phone, or if you need any other type of help, please call us at 0808 101 4566 (from the UK).
If reserving from outside the UK click here.

GRAN MELIÁ HOTELS & RESORTS | MELIÁ | ME | INNSIDE | Sol Hotels

In accordance with Spanish Data Protection Law 15/1999 and Article 12 of Royal Decree 1720/2007, you specifically agree that the data provided may be processed and stored in a file owned by SOL MELIA S.A. of Calle Gremio Toneleros nº 24, Palma de Mallorca 07009, Spain.

The use of the personal data provided is proceed with your hotel booking and provide you with efficient service.

You also specifically agree that the data provided during the service be passed on to the hotels in the Sol Meliá chain and any other Sol Meliá Group companies worldwide for the same purposes.

We would like to inform you that at any time you may exercise your rights under the law, and particularly in regard to data access, amendment, cancellation and opposition, by writing to the Marketing Department at the above address or by e-mail to lopd@solmelia.com using the reference "Data Protection".

Cooper, Rachel

From: bookings@solmelia.com
Sent: 02 June 2009 21:46
To: Cooper, Rachel
Subject: Booking confirmation - Code A Meliá White House

Sol Meliá HOTELS & RESORTS

Confirmed booking

Lowest Online Rate. Guaranteed. - No booking fees - Maximum security and confidentiality

Booking reference number: Code A

Meliá White House
Albany Street, Regents Park
NW1 3UP-London,(GREAT BRITAIN)
Telephone: (44) 207 3913000
Fax: (44) 207 388 0091
Directions to the hotel

Arrival date:	07/06/2009	5 nights
Departure date:	12/06/2009	
Check-in time:	After 3 P.M.	
Check-out time:	Until 12 P.M.	

*For specific requests at check-in, please contact the hotel

Cardholder:	Miss Rachel Cooper
Rooms:	1 Room for 1 adult
Room type:	Classic room, 1 person
Board basis:	Room only
Total cost:	672,75 GBP (includes taxes)

Room 1:	117,00 GBP
Daily rate:	117,00 GBP
nights:	x5 nights
Total price	585,00 GBP
National taxes 15,00%:	87,75 GBP
Local taxes (Included):	--
TOTAL COST (sales taxes included):	672,75 GBP (sales taxes included)

Rate type booked: Best Available Rate

Conditions of rate booked: Best Available Rate
-If you choose our half board rates you will enjoy a dinner in our international buffet, including live show cooking and roast station. Offer subject to a limited share of rooms.The prices and the conditions offered can be different at each moment, even if you request the same dates. Should you modify your booking please always check the new price applied before confirming the changes.

Booking guarantee and form of payment:
This booking has been guaranteed by a credit card with the last four numbers 7867
The cost of this booking will not be charged to your credit card (payment should be made when you leave the hotel), except when guests do not arrive at the hotel on the expected arrival date, in which case a charge will be made according to the rate cancellation conditions. For bookings which require pre-payment, a charge will be made to the credit card number given.(see rate conditions).

Changes or cancellation of this booking:
If cxl after 4PM arr day or no show 1NT polity
If you need to cancel your booking, you may do so online by clicking here.

To change or cancel this booking by phone, or if you need any other type of help, please call us at 0808 101 4566 (from the UK).
If reserving from outside the UK click here.

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The use of the personal data provided is proceed with your hotel booking and provide you with efficient service.
You also specifically agree that the data provided during the service be passed on to the hotels in the Sol Meliá chain and any other Sol Meliá Group companies worldwide for the same purposes.
We would like to inform you that at any time you may exercise your rights under the law, and particularly in regard to data access, amendment, cancellation and opposition, by writing to the Marketing Department at the above address or by e-mail to lopd@solmelia.com using the reference "Data Protection".

Cooper, Rachel

From: noreply.nxec@nationalexpress.com
Sent: 02 June 2009 22:26
To: Cooper, Rachel
Subject: National Express East Coast Booking confirmation

national express Trains

nationalexpresseastcoast.com
nationalexpresseastanglia.com

Booking confirmation

Dear Ms Cooper,

With guaranteed site security you can be assured that your payment has been securely processed. Your booking details are as follows – please take a moment to check the information is correct.

Your confirmation number is:

Code A

Journey: 1 Lancaster to London Euston @ £56.00
ADVANCE £56.00 (1 @ £56.00)
Journey: 2 London Euston to Retford @ £68.50
ADVANCE £68.50 (1 @ £68.50)
Journey: 3 Retford to London Euston @ £27.15
ADVANCE £27.15 (1 @ £27.15)
Your Payment Card * Code A has been charged £151.65**
Our terms and conditions and the National Conditions of Carriage apply to this booking and are available at www.nationalexpresseastcoast.com

Journey: 1 Lancaster to London Euston
Ticket type: Advance Single Valid only on your chosen service. Not refundable. Changeable prior to date of travel for a fee.
Route: Virgin Trains Only
Outward journey: 7 Jun 2009
departs Lancaster at 15:38 travel by Train service provider Virgin Trains to station London Euston arrives 18:18 (seats reserved: Coach: C Seats: 31A)

Journey: 2 London Euston to Retford
Ticket type: NXEC Advance Valid only on your chosen service.Not refundable.Changeable prior to travel for a fee.
Route: Via National Express East Coast & other TOC connecting services.
Outward journey: 12 Jun 2009
London Underground
departs London Kings Cross at 18:30 travel by Train service provider National Express East Coast to station Retford arrives 19:57 (seats reserved: Coach: E Seats: 61A)

Journey: 3 Retford to London Euston
Ticket type: NXEC Advance Valid only on your chosen service. Not refundable. Changeable prior to date of travel for a fee.
Route: Via National Express East Coast & other TOC

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Need to stay overnight?
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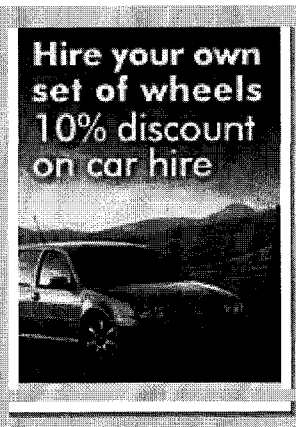
connecting services.
Outward journey: 14 Jun 2009
departs Retford at 15:25 travel by Train service provider National Express East Coast to station London Kings Cross arrives 17:18
(seats reserved: Coach: D Seats: 51A)

London Underground

Ticket Collection

This is not a valid ticket for travel.
You have chosen to collect your tickets from Lancaster. Your Fastticket Reference is **6JWN28KR**
You will need to take the Fastticket Reference and the payment card you used for the booking to collect your ticket.
To collect your tickets, you must have both the credit/debit card used to purchase the tickets and your ticket booking reference. Tickets cannot be issued without both of these items. Please note that if you are starting your journey at an unmanned station without a self service ticket machine, and have selected to collect your tickets from an alternative station, you must collect your tickets before you travel. You are not permitted to travel to that station using the reference number or confirmation email for this booking to collect your tickets, and will be charged a Penalty Fare if you choose to travel without a valid ticket.



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GMC – v – DR JANE BARTON

CHRONOLOGY: PATIENT L – JEAN STEVENS

Date of Birth: Code A

Needs amending.

Date:	Event:	Source:	Page(s):	Comments:
2/2/99	Reviewed by locum consultant re left iliac fossa pain.	Correspondence Clinical notes	154 205	
9/3/99	Referred to consultant anaesthetist re abdominal pain.	Correspondence	144-145	
26/4/99	Admitted to Royal Hospital Haslar after experiencing chest pain and collapsing at home. CT brain scan conducted.	Nursing notes A&E notes Clinical notes CT scan results Drug charts	92, 94, 96, 98, 100, 125, 131 146-149 208-211 255 73-78, 703-725	

GMC101215-0017

27/4/99	Nasogastric tube feeding begins.	Intake notes Nursing notes Clinical notes	51-68 100 212	
28/4/99	Transferred to Coronary Care Unit. Chest x-ray conducted. Antibiotics commenced.	Nursing notes Clinical notes	100, 108 213-215	
30/4/99	Reviewed by HO on call.	Clinical notes	217-218	
1/5/99	Reviewed on ward round.	Clinical notes	219	
2/5/99	Reviewed by physiotherapist.	Clinical notes	219	

GMC101215-0018

3/5/99	Reviewed on ward round.	Clinical notes	219	
4/5/99	Reviewed on ward round and by dietician.	Clinical notes	219-223	
5/5/99	Patient begins taking food orally. Referred to Dr Lord, consultant geriatrician. Treated with oxygen and diamorphine for respiratory failure.	Intake notes Nursing notes Clinical notes	44-50 110 224	
6/5/99	Reviewed by Dr Lord.	Correspondence Nursing notes Clinical notes	69, 734 110, 112 226-228	
7/5/99	Reviewed by Registrar.	Clinical notes	229	

GMC101215-0019

10/5/99	Nasogastric feeding recommenced. Reviewed by Dr Tandy, consultant geriatrician.	Intake notes Correspondence Nursing notes Clinical notes	32-43 6 114 229-233	
11/5/99	Reviewed on SHO.	Clinical notes	233-234	
12/5/99	Reviewed on ward round.	Clinical notes	234	
13/5/99	Reviewed on ward round, and by dietician.	Clinical notes	234-235	
14/5/99	Reviewed by orthopaedic specialist. Subluxation of shoulder diagnosed.	Drug charts Nursing notes Clinical notes	73 118 236	

GMC101215-0020

17/5/99	Reviewed by SHO, and by dietician.	Clinical notes	237	
18/5/99	Liaison between Royal Haslar Hospital and GWMH.	Nursing notes Clinical notes	120 237-238	
19/5/99	Reviewed by physiotherapist.	Clinical notes	238-239	
20/5/99	Transferred to Daedalus Ward, GWMH. Upon transfer, patient receiving aspirin, enalapril, digoxin, isosorbide, mononitrate and PRN subcutaneous diamorphine 5mg. Reviewed by Dr Barton.	Transfer record Drug charts Nursing referral Nursing notes (Haslar) Clinical notes Admission notes Significant events Nursing assessment Nursing care plan	70 73, 77-78 86 122 1292 1296-1297 1299 1302-1307, 1318-1322 1324-1337	

GMC101215-0021

	Drug charts indicate: • Digoxin: Dr Barton prescribes 1.2ml od. • Enalapril: Dr Barton prescribes 5mg od. • Aspirin: Dr Barton prescribes 75mg od. • Isosorbide: Dr Barton prescribes 60mg. Not administered. • Suby C: Dr Barton prescribes. Not administered. • Oramorph: Dr Barton prescribes 2.5-5ml (5-10mg) PRN. 2.5ml (5mg) administered at 14.30, 18.30 and 22.45. • Diamorphine: Dr Barton prescribes 20-200mg/24hrs PRN by subcutaneous infusion. • Hyoscine: Dr Barton prescribes 200-800µg/24hrs PRN by subcutaneous infusion. • Midazolam: Dr Barton prescribes 20-80mg/24hrs PRN by subcutaneous infusion.	Drug charts	1342-1346	

GMC101215-0022

21/5/99	Drug charts indicate: • Digoxin: 1.2ml administered. • Enalapril: 5mg administered. • Aspirin: 75mg administered. • GTN spray: Dr Barton prescribes 2 puffs PRN. Not administered. • Oramorph: 2.5ml (5mg) administered at 07.35. Dr Barton then prescribes 5ml (10mg) four times daily and 10ml (20mg) nocte. 5ml (10mg) administered at 10.00 and 14.00. • Diamorphine: 20mg/24hrs administered at 19.20. • Midazolam: 20mg/24hrs administered at 19.20.	Contact record Drug charts	1309 1342-1346	
22/5/99	Drug charts indicate: • Diamorphine: 20mg/24hrs administered at 08.00. 20mg/24hrs administered at 10.30. • Hyoscine: 800µg/24hrs administered at 08.00. Dr Beasley then verbally prescribes 1600µg/24hrs by subcutaneous infusion. 1600µg/24hrs administered at 10.30. • Midazolam: 20mg/24hrs administered at 08.00. 20mg/24hrs administered at 10.30.	Contact record Drug charts	1309, 1311 1342-1346	

GMC101215-0023

	Death recorded at 22.30.	Clinical notes Significant events Contact record	1292 1299 1311	

GMC101215-0024

Dr Barton – Patient Schedule

Letter	Name	Admitted to GWMH	Date of Death	
A	Code A Lesley Pittock	5 January 1996	Code A	check meds pres ordered
B	Code A Elsie Lavender	22 February 1996		
C	Code A *Eva Page	23 Feb 1998		
D	Code A *Alice Wilkie	6 Aug 1998		
E	Code A *Gladys Richards	1998		
F	Code A Ruby Lake	18 August 1998		
G	Code A *Arthur Cunningham	21 September 1998		amend s.
H	Code A *Robert Wilson	14 October 1998		Dead bed alternative positions
I	Code A Enid Spurgin	26 March 1999		

GMC101215-0025

Code A
Code A
23 August 1999
21 October 1999
Code A
Geoffrey Packman
Code A
Elsie Bevine
Code A
J
K
L

Century High

General
Medical
Council

Regulating doctors
Ensuring good medical practice

FITNESS TO PRACTISE PANEL HEARING

On 8 June – 21 August 2009 a Fitness to Practise Panel will consider the case of:

Dr Jane Ann BARTON
GMC Reference Number: Code A
Registered Address Code A

The hearing will commence at 09:30 at:

General Medical Council
Third Floor
350 Euston Road
London
NW1 3JN

Type of case: New case of impairment by reason of misconduct.

The case is expected to last 55 days.
The Panel will not be sitting on 18 June and 23 July 2009.

Panel Members:	Mr A Reid, Chairman (Lay) Mr J Campbell (Lay) Ms J Julien (Lay) Mrs P Mansell (Lay) Dr R Smith (Medical)
Legal Assessor:	Mr Francis Chamberlain

If you require any further information or assistance, please call Adjudication Management Section on 020 7189 5189, or visit the GMC website www.gmc-uk.org.

If an emergency arises out of hours that may prevent your attendance at the required time please call 020 7189 5189 and leave a message. We will not be able to call you back at the time, but it will enable us to act on your message as soon as the office opens the next working day.

The Panel will inquire into the following allegation against Jane Ann Barton, BM BCh 1972 Oxford University:

"That being registered under the Medical Act 1983, as amended,

'1. At all material times you were a medical practitioner working as a clinical assistant in elderly medicine at the Gosport War Memorial Hospital ("GWMH"), Hampshire;

'2. a. i. Patient A was admitted to Dryad Ward at the GWMH on 5 January 1996 for long term care,

ii. between 5 and 10 January 1996 you prescribed Oramorphine 5mg 5 times daily, as well as Diamorphine with a dose range of 40 - 80 mg over a twentyfour hour period to be administered subcutaneously ("SC") on a continuing daily basis,

iii. on 11 January 1996 you prescribed Diamorphine with a dose range of 80 - 120 mg and Midazolam with a range of 40 - 80 mg to be administered SC over a twentyfour hour period,

iv. on 15 January 1996 a syringe driver was commenced at your direction containing 80 mg Diamorphine and 60 mg Midazolam as well as Hyoscine Hydrobromide,

v. on 17 January 1996 the dose of Diamorphine was increased to 120 mg and Midazolam to 80 mg,

vi. on 18 January 1996 you prescribed 50 mg Nozinan in addition to the drugs already prescribed,

b. In relation to your prescriptions described in paragraphs 2.a.ii and 2.a.iii.,

i. the lowest doses prescribed of Diamorphine and Midazolam were too high,

ii. the dose range was too wide,

iii. the prescription created a situation whereby drugs could be administered to Patient A which were excessive to the patient's needs,

c. The doses of Diamorphine administered to the patient on 15 and 17 January 1996 were excessive to the patient's needs,

d. Your prescription described at paragraphs 2.a.vi.in combination with the other drugs already prescribed were excessive to the patient's needs,

e. Your actions in prescribing the drugs as described in paragraphs 2.a.ii., iii., iv., v., and vi. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient A;

'3. a. i. Patient B was admitted to Daedalus Ward at the GWMH on 22 February 1996,

ii. on 24 February 1996 you prescribed the patient Morphine Slow Release Tablets (MST) 10 mg twice a day,

iii. on 26 February 1996 you increased the prescription for MST and prescribed Diamorphine with a dose range of 80 mg - 160 mgs and Midazolam with a dose range of 40 - 80 mg to be administered SC over a twentyfour hour period on a continuing daily basis,

iv. on 5 March 1996 you prescribed Diamorphine with a dose range of 100 - 200 mg and Midazolam with a dose range of 40 mg - 80 mg over a twentyfour hour period to be administered SC and a syringe driver was commenced containing Diamorphine 100 mg and Midazolam 40 mg,

b. In relation to your prescriptions for drugs described in paragraphs 3.a.iii. and iv.,

i. the lowest commencing doses prescribed on 26 February and 5 March 1996 of Diamorphine and Midazolam were too high,

ii. the dose range for Diamorphine and Midazolam on 26 February and on 5 March 1996 was too wide,

iii. the prescriptions created a situation whereby drugs could be administered to Patient B which were excessive to the patient's needs,

c. Your actions in prescribing the drugs described in paragraphs 3.a. ii., iii. and/or iv. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient B,

d. In relation to your management of Patient B you,

i. did not perform an appropriate examination and assessment of Patient B on admission,

ii. did not conduct an adequate assessment as Patient B's condition deteriorated,

iii. did not provide a plan of treatment,

iv. did not obtain the advice of a colleague when Patient B's condition deteriorated,

e. Your actions and omissions in relation to your management of patient B were,

i. inadequate,

ii. not in the best interests of Patient B;

'4. a. i. on 27 February 1998 Patient C was transferred to Dryad Ward at GWMH for palliative care,

ii. on 3 March 1998 you prescribed Diamorphine with a dose range of 20mg - 200mg and Midazolam with a dose range of 20-80mg to be administered SC over a twentyfour hour period on a continuing daily basis,

b. In relation to your prescription for drugs described in paragraph 4.a.ii.,

i. the dose range of Diamorphine and Midazolam was too wide,

ii. the prescription created a situation whereby drugs could be administered to the patient which were excessive to the Patient C's needs,

c. Your actions in prescribing the drugs described in paragraph 4.a. ii. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of your patient;

'5. a. i. on 6 August 1998 Patient D was transferred to Daedalus Ward at GWMH for continuing care observation,

ii. on or before 20 August 1998 you prescribed Diamorphine with a dose range of 20mg - 200mg and Midazolam with a dose range of 20mg - 80mg to be administered SC over a twentyfour hour period on a continuing daily basis,

b. In relation to your prescription for drugs as described in paragraph 5.a. ii.,

i. the dose range was too wide,

ii. the prescription created a situation whereby drugs could be administered to Patient D which were excessive to the patient's needs,

c. Your actions in prescribing the drugs as described in paragraph 5.a.ii. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient D;

'6. a. i. Patient E was admitted to Daedalus Ward at GWMH on 11 August 1998 after an operation to repair a fractured neck of femur at the Royal Haslar Hospital,

ii. on 11 August 1998 you prescribed 10 mg Oramorphine 'prn' (as required),

iii. on 11 August 1998 you also prescribed Diamorphine with a dose range of 20 mg - 200 mg and Midazolam with a dose range of 20 mg - 80 mg to be administered SC over a twentyfour hour period on a continuing daily basis,

b. In relation to your prescription for drugs described in paragraph 6.a.iii.,

i. the dose range was too wide,

ii. the prescription created a situation whereby drugs could be administered to Patient E which were excessive to the patient's needs,

c. Your actions in prescribing the drugs described in paragraph 6.a. ii. and/or iii. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient E;

'7. a. i. Patient F was admitted to Dryad Ward at GWMH on 18 August 1998 for the purposes of rehabilitation following an operation to repair a fractured neck of femur at the Royal Haslar Hospital,

ii. on 18 August 1998 you prescribed Oramorphine 10 mg in 5 ml 'prn' (as required),

iii. between 18 and 19 August 1998 you prescribed Diamorphine with a dose range of 20 - 200 mg and Midazolam with a dose range of 20 - 80 mg to be administered SC over a twenty-four hour period on a continuing daily basis,

b. In relation to your prescription for drugs described in paragraph 7.a.iii.,

i. the dose range was too wide,

ii. the prescription created a situation whereby drugs could be administered to Patient F which were excessive to the patient's needs,

c. Your actions in prescribing the drugs described in paragraphs 7.a. ii. and/or iii. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient F;

'8. a. i. Patient G was admitted to Dryad Ward at GWMH on 21 September 1998 with a painful sacral ulcer and other medical conditions,

ii. on 21 September 1998 you prescribed Diamorphine with a dose range of 20 - 200 mg and Midazolam with a dose range of 20 - 80 mg to be administered SC over a twentyfour hour period on a continuing daily basis,

iii. on 25 September 1998 you wrote a further prescription for Diamorphine with a dose range of 40 - 200mg and Midazolam with a dose range of 20 – 200mg to be administered subcutaneously over a twenty-four hour period on a continuing daily basis,

b. In relation to your prescriptions for drugs described in paragraphs 8.a.ii. and/or iii.,

i. the dose range was too wide,

ii. the prescription created a situation whereby drugs could be administered to Patient G which were excessive to the patient's needs,

c. Your actions in prescribing the drugs described in paragraphs 8.a.ii. and/or iii. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient G,

d. You did not obtain the advice of a colleague when Patient G's condition deteriorated;

'9. a. i. Patient H was admitted to Dryad Ward GWMH on 14 October 1998 for ongoing assessment and possible rehabilitation suffering from a fracture of the left upper humerus, liver disease as a result of alcoholism and other medical conditions,

ii. on 14 October 1998 you prescribed Oramorphine 10 mg in 5 ml, with a dose of 2.5 ml to be given every four hours thereafter as needed, following which regular doses of Oramorphine were administered to the patient,

iii. on or before 16 October 1998 you prescribed Diamorphine with a dose range of 20 mgs - 200 mgs to be administered subcutaneously over a twentyfour hour period on a continuing daily basis,

iv. on or before 17 October 1998 you prescribed Midazolam with a range of 20 mgs - 80 mgs to be administered SC over a twentyfour hour period on a continuing daily basis,

b. In light of the Patient H's history of alcoholism and liver disease your decision to give this patient Oramorphine at the doses described in paragraph 9.a .ii. was,

i inappropriate,

ii. potentially hazardous,

iii. likely to lead to serious and harmful consequences for Patient H,

iv. not in the best interests of Patient H,

c. In relation to your prescription described in paragraph 9.a. iii.,

i. the dose range was too wide,

ii. the prescription created a situation whereby drugs could be administered to Patient H which were excessive to the patient's needs,

d. Your actions in prescribing the drugs described in paragraphs 9.a. ii., iii. and/or iv. were,

i. inappropriate,

ii. potentially hazardous,

iii not in the best interests of Patient H.,

e. You did not obtain the advice of a colleague when Patient H's condition deteriorated;

'10. a. i. Patient I was admitted to Dryad ward at GWMH on 26 March 1999 following her treatment for a fractured neck of femur at the Haslar Hospital,

ii. on 12 April 1999 you prescribed Diamorphine with a dose range of 20 - 200 mgs and Midazolam with a dose range of 20 - 80 mgs to be administered SC over a twentyfour hour period on a continuing daily basis,

iii. on 12 April 1999 a syringe driver with 80 mgs Diamorphine and 20 mgs Midazolam over twenty-four hours was started under your direction but later the dose was reduced to 40 mgs by Dr Reid,

b. You did not properly assess Patient I upon admission. This was,

i. inadequate,

ii. not in the best interests of Patient I,

c. In relation to your prescription for drugs described in paragraph 10.a.ii.,

i. the dose range was too wide,

ii. the prescription created a situation whereby drugs could be administered to Patient I which were excessive to the patient's needs,

d. Your actions in prescribing the drugs described in paragraph 10.a. ii. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient I,

e. The dosage you authorised/directed described in paragraph 10.a. iii. was excessive to Patient I's needs. This was,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient I;

'11. a. i. Patient J was admitted to Dryad Ward at GWMH on 23 August 1999 following his treatment at the Queen Alexandra Hospital where the patient had been admitted as an emergency following a fall at home,

ii. on 26 August 1999 you gave verbal permission for 10 mg of Diamorphine to be administered to Patient J,

iii. you saw Patient J that day and noted 'not well enough to transfer to the acute unit, keep comfortable, I am happy for nursing staff to confirm death',

iv. you did not consult with anyone senior to you about the future management of Patient J nor did you undertake any further investigations in relation to Patient J's condition,

v. on 26 August 1999 you prescribed Diamorphine with a dose range of 40 - 200 mg and Midazolam with a dose range of 20 - 80 mg to be administered SC over a twentyfour hour period on a continuing daily basis,

vi. on 26 August 1999 you also prescribed Oramorphine 20 mg at night'

b. In relation to your prescription for drugs described in paragraph 11.a.v.,

i. the lowest doses of Diamorphine and Midazolam prescribed were too high,

ii. the dose range was too wide,

iii. the prescription created a situation whereby drugs could be administered to Patient J which were excessive to the patient's needs,

c. Your actions in prescribing the drugs described in paragraphs 11.a. ii. and/or v. were,

i. inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient J,

d. Your failure to obtain medical advice and/or undertake further investigation described in paragraph 11.a. iv. was,

i. inappropriate,

ii. not in the best interests of Patient J;

'12. a. i. Patient K was admitted to Dryad Ward at GWMH for continuing care on 21 October 1999 from Queen Alexandra Hospital She was reported to be suffering from chronic renal failure and multi infarct dementia,

ii. on admission you prescribed Morphine solution 10mg in 5 ml as required,

iii. on 18 and 19 November 1999 there was a deterioration in the Patient K's condition and on 18 November 1999 you prescribed Fentanyl 25 µg by patch,

iv. on 19 November 1999 you prescribed Diamorphine with a dose range of 40 - 80 mg Midazolam with a dose range of 20 to 80 mg to be administered SC over a twentyfour hour period on a continuing daily basis,

b. The prescription on admission described in paragraph 12.a.ii. was not justified by the patient's presenting symptoms,

c. In relation to your prescription for drugs described in paragraph 12.a.iv.,

i. the lowest doses of Diamorphine and Midazolam prescribed were too high,

ii. the dose range was too wide,

iii. the prescription created a situation whereby drugs could be administered to Patient K which were excessive to the patient's needs,

d. Your actions in prescribing the drugs described in paragraphs 12.a. ii., iii. and/or iv. were,

i inappropriate,

ii. potentially hazardous,

iii. not in the best interests of Patient K,

e. You did not obtain the advice of a colleague when Patient K's condition deteriorated;

'13. a. i. Patient L was admitted to Daedalus Ward at GWMH on 20 May 1999 following a period of treatment at the Haslar Hospital for a stroke,

ii. on 20 May 1999 you prescribed,

a. Oramorphine 10 mgs in 5 mls 2.5-5mls,

b. Diamorphine with a dose range of 20 to 200 mgs to be administered SC over a twenty-four hour period on a continuing daily basis,

c. Midazolam with a dose range of 20 to 80 mgs to be administered SC,

iii. you further prescribed Oramorphine 10 mgs in 5 mls 4 times a day and 20 mgs nocte (at night) as a regular prescription to start on 21 May 1999,

iv. doses of Oramorphine, Diamorphine and Midazolam were subsequently administered to the patient in 21 and 22 May 1999,

b. In relation to your prescription for drugs described in paragraph 13.a.ii. and/or iii.,

i. there was insufficient clinical justification for such prescriptions,

ii. the dose range of Diamorphine and Midazolam was too wide,

iii. the prescriptions created a situation whereby drugs could be administered which were excessive to the patient's needs,

iv. your actions in prescribing the drugs described in paragraph 13.a. ii. and or iii. were,

a. Inappropriate,

b. Potentially hazardous,

c. Not in the best interests of patient L,

c. You did not obtain the advice of a colleague when Patient L's condition deteriorated;

'14. a. You did not keep clear, accurate and contemporaneous notes in relation to Patients A, B, C, D, E, F, G, H, I, J K and/or L 's care and in particular you did not sufficiently record,

i. the findings upon each examination,

ii. an assessment of the patient's condition,

iii. the decisions made as a result of examination,

iv. the drug regime,

v. the reason for the drug regime prescribed by you,

vi. the reason for the changes in the drug regime prescribed and/or directed by you,

b. Your actions and omissions in relation to keeping notes for Patients A, B, C, D, E, F, G, H, I, J, K and/or L were,

i. inappropriate,

ii. not in the best interests of your patients;

'15. a. In respect of the following patients you failed to assess their condition appropriately before prescribing opiates: Patients A, B, C, D, E, F, G, H, I, J, K, L,

b. Your failure to assess the patients in paragraph a. appropriately before prescribing opiates was not in their best interests."

"And that in relation to the facts alleged you have been guilty of serious professional misconduct."

Biographical Details

Fitness to Practise Panel: 8 June – 21 August 2009, Dr Barton

Panellist	Name	Medical/Lay	Interests
Chairman	**Mr Andrew REID** LLB JP	**Lay**	Director, Pecksniff's Ltd. Member: Prescription Medicine Code of Practice Authority Appeal Board. Justice of the Peace. Member, Magistrates' Association Executive Committee, West Sussex Branch. Formerly: Criminal Defence Barrister; British Council Country Director, Taiwan; CEO Powco, Vietnam.
Panellist 1	**Mr John CAMPBELL** Code A	**Lay**	Member of the Faculty of Advocates
Panellist 2	**Ms Joy JULIEN** Code A	**Lay**	Lay Member: Office for Judicial Complaints. Non-Executive Member : London Legal Support Trust. Lay Assessor: Counter Police Assessment Service. Lay Assessor: National Clinical Assessment Service. Formerly: Member of the Parole Board; Business mentor, Prince's Trust; Trustee of Legal Action Group; Trustee Central London Law Centre; Director of the African Caribbean Finance Forum; Director of the Royal Courts of Justice Citizens Advice Bureau.
Panellist 3	**Mrs Pamela MANSELL** Code A	**Lay**	Senior Partner PMA Consultancy specialising in improving performance in public services, adviser to government bodies on safeguarding standards and regulation for both vulnerable people and children, independent panellist for the Judicial Appointments Commission, Committee for GSCC,GMC Fitness to Practise Panellist, Governor for Treloars College. Previous employment : C/E of Charity: Director of Children and Family Services - LB. Member: CIPD : Past President - Inner Wheel organisation.
Panellist 4	**Dr Roger SMITH** Code A	**Medical**	Retired full time but still part time Consultant Cardiologist N Tees & Hartlepool NHS Trust Ex Vice President RCPEd Lay (Public Interest) Member Practitioner Certification Committee, Institute of Chartered Accountants of Scotland Fellow of Royal Colleges of Physicians London and Edinburgh Member British Cardiovascular Society

GMC101215-0040

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IN THE MATTER OF THE MEDICAL ACT 1983

AND IN THE MATTER OF

THE GENERAL MEDICAL COUNCIL

AND

DR JANE BARTON

NOTICE OF HEARING

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1. At all material times you were a medical practitioner working as a clinical assistant in elderly medicine at the Gosport War Memorial Hospital ("GWMH"), Hampshire.

2. a) i) Patient A was admitted to Dryad Ward at the GWMH on 5 January 1996 for long term care,

ii) Between 5 and 10 January 1996 you prescribed Oramorphine 5mg 5 times daily, as well as Diamorphine with a dose range of 40 – 80 mg over a twenty-four hour period to be administered subcutaneously ("SC") on a continuing daily basis,

iii) On 11 January 1996 you prescribed Diamorphine with a dose range of 80 – 120 mg and Midazolam with a range of 40 – 80 mg to be administered SC over a twenty-four hour period,

iv) On 15 January 1996 a syringe driver was commenced at your direction containing 80 mg Diamorphine and 60 mg Midazolam as well as Hyoscine Hydrobromide,

v) On 17 January 1996 the dose of Diamorphine was increased to 120 mg and Midazolam to 80 mg,

vi) On 18 January 1996 you prescribed 50 mg Nozinan in addition to the drugs already prescribed,

b) In relation to your prescriptions described in paragraphs 2a (ii) and 2a (iii):

i) the lowest doses prescribed of Diamorphine and Midazolam were too high;

ii) the dose range was too wide,

iii) the prescription created a situation whereby drugs could be administered to Patient A which were excessive to the patient's needs.

c) The doses of Diamorphine administered to the patient on 15 and 17 January 1996 were excessive to the patient's needs.

d) Your prescription described at paragraphs 2a) vi) in combination with the other drugs already prescribed were excessive to the patient's needs.

e) Your actions in prescribing the drugs as described in paragraphs 2a) ii), iii), iv), v), and vi) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient A.

3. a) i) Patient B was admitted to Daedalus Ward at the GWMH on 22 February 1996,

ii) On 24 February 1996 you prescribed the patient Morphine Slow Release Tablets (MST) 10 mg twice a day,

iii) On 26 February 1996 you increased the prescription for MST and prescribed Diamorphine with a dose range of 80 mg - 160 mgs and Midazolam with a dose range of 40 - 80 mg to be administered SC over a twenty-four hour period on a continuing daily basis,

iv) On 5 March 1996 you prescribed Diamorphine with a dose range of 100 - 200 mg and Midazolam with a dose range of 40 mg – 80 mg over a twenty-four hour period to be administered SC and a syringe driver was commenced containing Diamorphine 100 mg and Midazolam 40 mg.

b) In relation to your prescriptions for drugs described in paragraphs 3a) iii) and iv):

i) the lowest commencing doses prescribed on 26 February and 5 March 1996 of Diamorphine and Midazolam were too high;

ii) the dose range for Diamorphine and Midazolam on 26 February and on 5 March 1996 was too wide,

iii) the prescriptions created a situation whereby drugs could be administered to Patient B which were excessive to the patient's needs.

c) Your actions in prescribing the drugs described in paragraphs 3a) ii), iii) and/or iv) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient B,

d) In relation to your management of Patient B you:

i) did not perform an appropriate examination and assessment of Patient B on admission,

ii) did not conduct an adequate assessment as Patient B's condition deteriorated,

iii) did not provide a plan of treatment,

iv) did not obtain the advice of a colleague when Patient B's condition deteriorated.

e) Your actions and omissions in relation to your management of patient B were:

i) inadequate,

ii) not in the best interests of Patient B.

4. a) i) On 27 February 1998 Patient C was transferred to Dryad Ward at GWMH for palliative care,

ii) On 3 March 1998 you prescribed Diamorphine with a dose range of 20mg - 200mg and Midazolam with a dose range of 20-80mg to be administered SC over a twenty-four hour period on a continuing daily basis.

b) In relation to your prescription for drugs described in paragraph 4a) ii):

i) the dose range of Diamorphine and Midazolam was too wide,

ii) the prescription created a situation whereby drugs could be administered to the patient which were excessive to the Patient C's needs,

c) Your actions in prescribing the drugs described in paragraph 4a) ii) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of your patient.

5. a) i) On 6 August 1998 Patient D was transferred to Daedalus Ward at GWMH for continuing care observation,

ii) On or before 20 August 1998 you prescribed Diamorphine with a dose range of 20mg - 200mg and Midazolam with a dose range of 20mg - 80mg to be administered SC over a twenty-four hour period on a continuing daily basis.

b) In relation to your prescription for drugs as described in paragraph 5a (ii):

i) the dose range was too wide,

ii) the prescription created a situation whereby drugs could be administered to Patient D which were excessive to the patient's needs,

c) Your actions in prescribing the drugs as described in paragraph 5a (ii) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient D.

6. a) i) Patient E was admitted to Daedalus Ward at GWMH on 11 August 1998 after an operation to repair a fractured neck of femur at the Royal Haslar Hospital,

ii) On 11 August 1998 you prescribed 10 mg Oramorphine 'prn' (as required),

iii) On 11 August 1998 you also prescribed Diamorphine with a dose range of 20 mg - 200 mg and Midazolam with a dose range of 20 mg - 80 mg to be administered SC over a twenty-four hour period on a continuing daily basis.

b) In relation to your prescription for drugs described in paragraph 6a) (iii):

i) the dose range was too wide,

ii) the prescription created a situation whereby drugs could be administered to Patient E which were excessive to the patient's needs.

c) Your actions in prescribing the drugs described in paragraph 6a) ii) and/or (iii) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient E.

7. a) i) Patient F was admitted to Dryad Ward at GWMH on 18 August 1998 for the purposes of rehabilitation following an

operation to repair a fractured neck of femur at the Royal Haslar Hospital,

ii) On 18 August 1998 you prescribed Oramorphine 10 mg in 5 ml 'prn' (as required),

iii) Between 18 and 19 August 1998 you prescribed Diamorphine with a dose range of 20 - 200 mg and Midazolam with a dose range of 20 - 80 mg to be administered SC over a twenty-four hour period on a continuing daily basis.

b) In relation to your prescription for drugs described in paragraph 7a) (iii):

i) the dose range was too wide,

ii) the prescription created a situation whereby drugs could be administered to Patient F which were excessive to the patient's needs.

c) Your actions in prescribing the drugs described in paragraphs 7a) ii) and/or iii) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient F.

8. a) i) Patient G was admitted to Dryad Ward at GWMH on 21 September 1998 with a painful sacral ulcer and other medical conditions,

ii) On 21 September 1998 you prescribed Diamorphine with a dose range of 20 - 200 mg and Midazolam with a dose range of 20 - 80 mg to be administered SC over a twenty-four hour period on a continuing daily basis,

iii) On 25 September 1998 you wrote a further prescription for Diamorphine with a dose range of 40 - 200mg and Midazolam with a dose range of 20 – 200mg to be administered subcutaneously over a twenty-four hour period on a continuing daily basis.

b) In relation to your prescriptions for drugs described in paragraphs 8a) (ii) and/or (iii):

i) the dose range was too wide,

ii) the prescription created a situation whereby drugs could be administered to Patient G which were excessive to the patient's needs.

c) Your actions in prescribing the drugs described in paragraphs 8a) (ii) and/or (iii) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient G.

d) You did not obtain the advice of a colleague when Patient G's condition deteriorated.

9. a) i) Patient H was admitted to Dryad Ward GWMH on 14 October 1998 for ongoing assessment and possible rehabilitation suffering from a fracture of the left upper humerus, liver disease as a result of alcoholism and other medical conditions,

ii) On 14 October 1998 you prescribed Oramorphine 10 mg in 5 ml, with a dose of 2.5 ml to be given every four hours thereafter as needed, following which regular doses of Oramorphine were administered to the patient,

iii) On or before 16 October 1998 you prescribed Diamorphine with a dose range of 20 mgs - 200 mgs to be administered subcutaneously over a twenty-four hour period on a continuing daily basis,

iv) On or before 17 October 1998 you prescribed Midazolam with a range of 20 mgs - 80 mgs to be administered SC over a twenty-four hour period on a continuing daily basis.

b) In light of the Patient H's history of alcoholism and liver disease your decision to give this patient Oramorphine at the doses described in paragraph 9a (ii) was:

i) inappropriate,

ii) potentially hazardous,

iii) likely to lead to serious and harmful consequences for Patient H,

iv) not in the best interests of Patient H.

c) In relation to your prescription described in paragraph 9a) iii):

i) the dose range was too wide,

ii) the prescription created a situation whereby drugs could be administered to Patient H which were excessive to the patient's needs.

d) Your actions in prescribing the drugs described in paragraphs 9a) ii), iii) and/or iv) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient H.

e) You did not obtain the advice of a colleague when Patient H's condition deteriorated.

10 a) i) Patient I was admitted to Dryad ward at GWMH on 26 March 1999 following her treatment for a fractured neck of femur at the Haslar Hospital,

ii) On 12 April 1999 you prescribed Diamorphine with a dose range of 20 - 200 mgs and Midazolam with a dose range of 20 - 80 mgs to be administered SC over a twenty-four hour period on a continuing daily basis,

iii) On 12 April 1999 a syringe driver with 80 mgs Diamorphine and 20 mgs Midazolam over twenty-four hours was started under your direction but later the dose was reduced to 40 mgs by Dr Reid.

b) You did not properly assess Patient I upon admission. This was:

i) inadequate,

ii) not in the best interests of Patient I.

c) In relation to your prescription for drugs described in paragraph 10a) ii):

i) the dose range was too wide,

ii) the prescription created a situation whereby drugs could be administered to Patient I which were excessive to the patient's needs.

d) Your actions in prescribing the drugs described in paragraph 10a) ii) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient I.

e) The dosage you authorised/directed described in paragraph 10a) iii) was excessive to Patient I's needs. This was:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient I.

11. a) i) Patient J was admitted to Dryad Ward at GWMH on 23 August 1999 following his treatment at the Queen Alexandra Hospital where the patient had been admitted as an emergency following a fall at home,

ii) On 26 August 1999 you gave verbal permission for 10 mg of Diamorphine to be administered to Patient J,

iii) You saw Patient J that day and noted 'not well enough to transfer to the acute unit, keep comfortable, I am happy for nursing staff to confirm death',

iv) You did not consult with anyone senior to you about the future management of Patient J nor did you undertake any further investigations in relation to Patient J's condition,

v) On 26 August 1999 you prescribed Diamorphine with a dose range of 40 - 200 mg and Midazolam with a dose range of 20 - 80 mg to be administered SC over a twenty-four hour period on a continuing daily basis,

vi) On 26 August 1999 you also prescribed Oramorphine 20 mg at night.

b) In relation to your prescription for drugs described in paragraph 11a) v):

i) the lowest doses of Diamorphine and Midazolam prescribed were too high;

ii) the dose range was too wide,

iii) the prescription created a situation whereby drugs could be administered to Patient J which were excessive to the patient's needs.

c) Your actions in prescribing the drugs described in paragraphs 11a) ii) and/or v) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient J.

d) Your failure to obtain medical advice and/or undertake further investigation described in paragraph 11a) iv) was:

i) inappropriate,

ii) not in the best interests of Patient J.

12. a) i) Patient K was admitted to Dryad Ward at GWMH for continuing care on 21 October 1999 from Queen Alexandra Hospital She was reported to be suffering from chronic renal failure and multi infarct dementia,

ii) On admission you prescribed Morphine solution 10mg in 5 ml as required,

iii) On 18 and 19 November 1999 there was a deterioration in the Patient K's condition and on 18 November 1999 you prescribed Fentanyl 25 µg by patch,

iv) On 19 November 1999 you prescribed Diamorphine with a dose range of 40 - 80 mg Midazolam with a dose range of 20 to 80 mg to be administered SC over a twenty-four hour period on a continuing daily basis.

b) The prescription on admission described in paragraph 12a) ii) was not justified by the patient's presenting symptoms.

c) In relation to your prescription for drugs described in paragraph 12a) iv):

i) the lowest doses of Diamorphine and Midazolam prescribed were too high;

ii) the dose range was too wide,

iii) the prescription created a situation whereby drugs could be administered to Patient K which were excessive to the patient's needs,

d) Your actions in prescribing the drugs described in paragraphs 12a) ii), iii) and/or iv) were:

i) inappropriate,

ii) potentially hazardous,

iii) not in the best interests of Patient K.

e) You did not obtain the advice of a colleague when Patient K's condition deteriorated.

13. a) i) Patient L was admitted to Daedalus Ward at GWMH on 20 May 1999 following a period of treatment at the Haslar Hospital for a stroke;

ii) On 20 May 1999 you prescribed:

a) Oramorphine 10 mgs in 5 mls 2.5-5mls;

b) Diamorphine with a dose range of 20 to 200 mgs to be administered SC over a twenty-four hour period on a continuing daily basis;

c) Midazolam with a dose range of 20 to 80 mgs to be administered SC;

iii) You further prescribed Oramorphine 10 mgs in 5 mls 4 times a day and 20 mgs nocte (at night) as a regular prescription to start on 21 May 1999;

iv) Doses of Oramorphine, Diamorphine and Midazolam were subsequently administered to the patient in 21 and 22 May 1999.

b) In relation to your prescription for drugs described in paragraph 13 a) ii) and/or iii):

i) There was insufficient clinical justification for such prescriptions;

ii) The dose range of Diamorphine and Midazolam was too wide;

iii) The prescriptions created a situation whereby drugs could be administered which were excessive to the patient's needs.

iv) Your actions in prescribing the drugs described in paragraph 13 a) ii) and or iii) were:

a. Inappropriate;

b. potentially hazardous;

c. Not in the best interests of patient L.

c) You did not obtain the advice of a colleague when Patient L's condition deteriorated.

14. a) You did not keep clear, accurate and contemporaneous notes in relation to Patients A, B, C, D, E, F, G, H, I, J K and/or L 's care and in particular you did not sufficiently record:

i) the findings upon each examination,

ii) an assessment of the patient's condition,

iii) the decisions made as a result of examination,

iv) the drug regime,

v) the reason for the drug regime prescribed by you,

vi) the reason for the changes in the drug regime prescribed and/or directed by you,

b) Your actions and omissions in relation to keeping notes for Patients A, B, C, D, E, F, G, H, I, J, K and/or L were:

i) inappropriate,

ii) not in the best interests of your patients.

15. a) In respect of the following patients you failed to assess their condition appropriately before prescribing opiates: Patients A, B, C, D, E, F, G, H, I, J, K, L

b) Your failure to assess the patients in paragraph (a) appropriately before prescribing opiates was not in their best interests.

"And that in relation to the facts alleged you have been guilty of serious professional misconduct."

Witness Name: [illegible]

GENERAL MEDICAL COUNCIL

DR JANE BARTON HEARING PERIOD (JUNE 2009)

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
8 June Code A Diane Mussell Ernest Stevens Code A	**9 June** Code A Code A Ernest Stevens Fiona Walker Code A P Beed	P Beed **10 June** Code A Code A Ernest Stevens Fiona Walker Code A Freda Slavin	**11 June** Code A Mrs Hallman Code A Ernest Stevens Fiona Walker Code A	**12 June** Code A Mrs Hallman Code A Ernest Stevens Jane Tandy Code A Code A	**13 June**	**14 June**
Code A **15 June** Code A Ernest Stevens Fiona Walker Jo Taylor	Code A **16 June** Code A Code A Ernest Stevens Fiona Walker Margaret Wigfall	Code A **17 June** Code A M Couchman Carl Jewel Rosie Lusznat Diane Mussell Ernest Stevens Fiona Walker Margaret Wigfall Jo Taylor	Code A **18 June** **NONE SITTING** Code A M Couchman Code A Ernest Stevens Margaret Wigfall	Code A **19 June** Code A M Couchman Code A Ernest Stevens Fiona Walker Margaret Wigfall Jo Taylor	**20 June**	**21 June**
Nurses **22 June** Code A M Couchman Code A	**23 June** ~~NONE SITTING~~ Code A M Couchman Code A	**24 June** Code A M Couchman Code A	**25 June** Code A M Couchman	**26 June** Code A M Couchman	**27 June**	**28 June**

9833395 v1

GMC101215-0058

Code A Ernest Stevens Margaret Wigfall	Code A Ernest Stevens Fiona Walker Margaret Wigfall	Jane Tandy Fiona Walker Margaret Wigfall	Fiona Walker Anita Tubbritt	Ernest Stevens Anita Tubbritt
Code A	Code A	Code A Code A	Code A	Code A
29 June	**30 June**			
Code A M Couchman	Code A M Couchman			
Code A Ernest Stevens Fiona Walker	Code A Ernest Stevens Fiona Walker			
Code A				

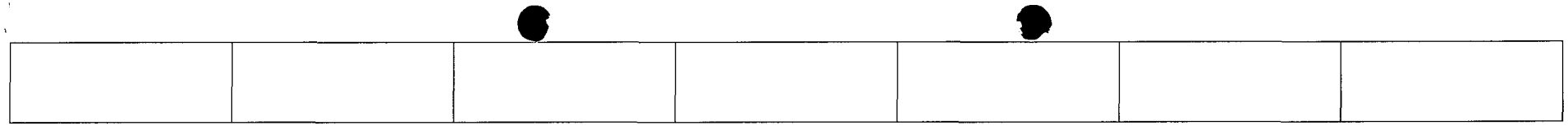
GMC101215-0059

GENERAL MEDICAL COUNCIL

DR JANE BARTON HEARING PERIOD (JULY 2009)

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
		1 July Code A M Couchman Code A Ernest Stevens R Clem	**2 July** Code A Ernest Stevens P Beed R Clem	**3 July** Code A Ernest Stevens Fiona Walker P Beed. R Clem	**4 July**	**5 July**
6 July	**7 July**	**8 July**	**9 July**	**10 July**	**11 July**	**12 July**
Code A Jane Tandy	Jane Tandy	Jane Tandy		Code A		
13 July	**14 July**	**15 July**	**16 July**	**17 July** Code A	**18 July**	**19 July**
20 July	**21 July**	**22 July**	**23 July** **NONE SITTING**	**24 July**	**25 July**	**26 July**
27 July	**28 July**	**29 July**	**30 July**	**31 July**		

GMC101215-0060



GMC101215-0061

GENERAL MEDICAL COUNCIL

DR JANE BARTON HEARING PERIOD (AUGUST 2009)

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
					1 August	2 August
3 August	4 August	5 August	6 August	7 August	8 August	9 August
10 August	11 August	12 August	13 August	14 August	15 August	16 August
17 August	18 August	19 August	20 August	21 August	22 August	23 August
24 August	25 August	26 August	27 August	28 August	29 August	30 August
31 August						

GMC101215-0062

Annex A
General Medical Council and Dr Barton

Witness schedule

No.	Day	Surname	First Name	Job/Title	GMC Statement	Full or Read	Comments
Day 1 **8.6.09** **– Argument, Admission and Opening**							
PATIENT WITNESSES							
PT A - PITTOCK							
1	**Day 2** 9.6.09 a.m.	Wiles	Lynda	Daughter	Y	No	NO SUMMONS. WILL READ IF ASKED. RC spoken to witness – very distressed, partially agreed to attend no definite answer (?? witness summons)
2	**9.6.09 a.m.**	**Brigg**	**Michael**	**Doctor**	**N – awaiting production statement**	**F**	**YES**
PT B – LAVENDER							
3	**9.6.09 a.m. (10.30am)**	**Lavender**	**Alan**	**Son**	**Y**	**F**	**YES – 10.30am**
PT C – PAGE							

GMC101215-0063

		NONE OTHER THAN EXPERT		-			
PT D – WILKIE							
4	**Day 3 10.6.09 a.m.**	**Jackson**	**Marilyn**	**Daughter**	**Y**	**F**	**YES**
PT E – RICHARDS							
5	10.6.09 a.m.	McKenzie	Gill	Daughter	Y		NO.
6	**10.6.09 a.m.**	**O'Brien**	**Lesley**	**Daughter**	**Y**	**F**	**YES**
Pt F – RUBY LAKE							
7	**Day 4** 11.6.09 a.m.	Mussell	Diane	Daughter	Y	F	NO. WILL READ IF ASKED. Not available. out of country
8	**11.6.09 a.m.**	**Robinson**	**Pauline**	**Daughter**	**Y**	**F**	**YES**
9	11.6.09 a.m.	Bindloss	Adele	Nurse	N - None expected	C	NO. WILL READ IF ASKED. Unable to trace - willing to read.
10	11.6.09 p.m.	Coltman	Timothy	Doctor	Y	C	Yes Available. Agreed
Pt K – ELSIE DEVINE							
11	**Day 5 12.6.09 a.m.**	Code A			**Y**	**F**	**Code A**
12	12.6.09 p.m.	Taylor	Joanna	Doctor	Y	F/C	Agreed. Available
13	12.6.09 a.m.	Cranfield	Tanya	Doctor	Y	F	**YES Available.**

GMC101215-0064

PT G – ARTHUR CUNNINGHAM							
14	12.6.09 a.m.	Sellwood	Shirley	Friend	Y	F/C	NO. Unwell WILL READ IF ASKED. Witness unwell.
15	12.6.09 p.m.	Gell	Pamela	Nurse	N- awaiting production statement	F/C	Yes
16	**Day 6 15.6.09 a.m**	**Farthing**	**Charles**	**Step-son**	**Y**	**F**	**YES**
Pt H – ROBERT WILSON							
17	**15.6.09 a.m.**	**Wilson**	**Iain**	**Son**	**N- awaiting revised statement**	**F**	**YES. Witness Summons**
18	15.6.09 a.m.	Wilson	Neil	Son	N - None expected	C	NO Witness in Bahrain, may apply to read – to discuss
19	**15.6.09 a.m. 2pm**	**Kimbley**	**Gillian**	**Wife**	**Y**	**F**	**YES**
20	**Day 7 16.6.09 p.m.**	**Couchman**	**Margaret**	**NURSE – Pt E - Richards, Pt B- Lavender, Pt E Richards**		**F**	**YES. Witness Summons**
21	16.6.09 a.m.	Luznat	Rosie	Doctor	Y	C	NO. WILL READ IF AGREED Will read by agreement. Out of country until 29th June.
22	**16.6.09 a.m.**	**Peters**	**Ewenda**	**Doctor**	**Y**	**F**	**YES. (WANTED BY DEFENCE)**

GMC101215-0065

Pt I – ENID SPURGIN							
23	16.6.09	Jewel	Carl	Nephew	N- production statement sent – unlikely to be returned.	F/C	UNWILLING. SUMMONS
24	16.6.09	Redfern	Daniel	Ortho Consultant	N- awaiting production statement	F/C	READ IN PART. – Langdale Available. Agreed Can do only 15 or 18 – TK to decide
Pt J – GEOFFREY PACKMAN							
25	**Day 8 17.6.09 a.m.**	**Packman**	**Betty**	**Wife**	**Y**	**F**	**YES**
26	**17.6.09 a.m.**	**Packman**	**Victoria**	**Daughter**	**Y**	**F**	**YES**
27	**17.6.09 p.m.**	**Dowse**	**Claire**	**SHO**	**N - awaiting production statement**	**C**	**YES 51902**
NOT SITTING THURSDAY 18.6.09							
Pt L – JEAN STEVENS							
28	Day 9 19.6.09 a.m.	Stevens	Ernest	Husband	Y	C	NO. WILL READ BY AGREEMENT? Not available. Would read in part if requested.
29	**19.6.09 a.m.**	**Bailey**	**June**	**Daughter**	**Y**	**F**	**No.**

NURSES							
		NAME	**1ST NAME**	**GMC ?**	**Relevant to -**	**FULL OR READ**	**COMMENTS**
30	19.6.09 a.m.	**Beed**	**Philip**	**Y**	**General Evidence and Pt E Gladys Richards**	**F**	**YES**

GMC101215-0066

31	**Day 10 22.6.09**	**Barrett**	**Lynn**	**Y**	**Pt A - Pittock, Pt F - Lake, Pt K - Devine, Pt I – Spurgin**	**F**	**YES. WITNESS SUMMONS – Unwell will be sending medical evidence.**
32	**22.6.09**	**Douglas**	**Tina**	**Y**	**Pt A Pittock, Pt F – Lake.**	**F**	**YES.**
33	22.6.09	Florio	Jeanette	N - None expected	Pt H - Wilson, Pt J – Packman	C	Not found
34	**Day 11** 23.6.09	Giffin	Sylvia	N - None expected	General and Pt E Richards	C	Will agree to read in part (deceased?)
35	**23.6.09**	**Hallman**	**Shirley**	**Y**	**Pt H - Wilson, Pt F - Lake, Pt G - Cunningham, Pt J - Packman**	**F**	**YES.**
36	**Day 12** 24.6.09	Ring	Sharon	N - None expected	Pt F - Lake, Pt A - Pittock, Pt – G Cunnigham	C	NO – WILL READ BY AGREEMENT
37	24.6.09	Lloyd	Ingrid	N – None expected	Pt G – Cunningham	F	NO – WILL READ BY AGREEMENT
38	**24.6.09**	**Shaw**	**Freda**	**Y**	**Pt I - Spurgin, Pt H - Wilson, Pt A - Pittock, Pt K - Devine, Pt G - Cunningham**	**F**	**YES**
39	**Day 13 25.6.09**	**Turnbull**	**Beverley**	**N- awaiting FFW statement**	**Pt J - Packman, Pt F - Lake, Pt G - Cunningham, Pt K - Devine, Pt I - Spurgin,**	**F**	**YES**
40	**25.6.09 2 pm**	**Tubbritt**	**Anita**	**N - awaiting production statement**	**Pt K - Devine, Pt F - Lake, Pt I - Spurgin, Pt J – Packman**	**F**	**YES.**
DOCTORS							
41	**Day 14 26.6.09**	**Ravindrane**	**Arumugam**	**Y**	**Pt H - Wilson, Pt J - Packman, Pt K - Devine**	**F**	**YES**
42	**26.6.09 11am**	**Banks**	**Victoria**	**Y**	**Pt A - Pittock, Pt G - Cunningham**	**F**	**YES**

GMC101215-0067

CONSULTANTS							
43	**Day 15 29.6.09**	**Tandy**	**Jane**	**Y**	**Pt A - Pittock, Pt J - Packman**	**F**	**YES**
44	**29.6.09 12pm**	**Reid**	**Richard**	**Y**	**Pt K - Devine, Pt E - Richards, Pt I - Spurgin, Pt J - Packman**	**F**	**YES**
45	Day 16 30.06.09	Samuel	Richard	Y			Secretary to confirm and call RC back 3.06.09
POLICE							
46		Yates	Christopher			C	To produce interviews of Dr Barton only
47		Quade	Geoffrey			C	A/A

EXPERT							
48	**Day 16 30.6.09 – 7.7.09**	**Ford**	**Gary**	**Y**		**F**	**YES Not available on 30.7.09 (Reading Day?)**

GMC101215-0068

WITNESSES (Other than nurses) WHO HAVE MADE GMC STATEMENTS NOT BEING CALLED BY GMC							
		Thomas	Elizabeth	Physio	Y	Pt B- Lavender	
		Barrett	David	Doctor	Y	Pt F - Lake	
		Clemow	Ruth	Nurse	Y	Pt H - Wilson	
		Reckless	Ian	Doctor	Y	Pt K - Devine	
		Stevens	Judith	Doctor	Y	Pt K - Devine	
		Reeves	James	Son	Y	Pt K - Devine	
		Watling	Jeffrey	Pharmacist	Y		
		Lord	Althea	Consultant	Y	Pt H - Wilson, Pt F - Lake, Pt A - Pittock, Pt K - Devine, Pt G - Cunningham, Pt E - Richards, Pt B- Lavender, Pt C - Page, Pt D - Wilkie	

NURSES FROM WHOM POLICE AND OR GMC STATEMENTS WERE OBTAINED BUT ARE NOT TO BE CALLED BY THE GMC							
		NAME	**1ST NAME**	**GMC ?**	**Relevant to -**	**COMMENTS**	
				N	Pt B- Lavender		
~~29~~	~~**Day** 23.6.~~			~~Y*~~	~~Left in 1991 – five years before charges but deals with meeting with management where concerns were raised over use of syringe drivers, nothing changed~~	~~F~~	~~Efforts being made to obtain this witness (??Witness summons) (let sent 18.05.09 – no response to date)~~
				N	Pt K - Devine, Pt H - Wilson, Pt G - Cunningham		
				N	Pt K - Devine		
				N	Pt B- Lavender		
				N	Pt H - Wilson, Cunningham, Pt J - Packman, Pt I – Spurgin,		

Code A

GMC101215-0069

		Code A	N	Pt B- Lavender, Pt G - Cunningham	
			N	Left Hospital in 1995	
			N	Pt K - Devine, Pt B- Lavender, Pt H - Wilson, Pt I - Spurgin,	
			N	Pt K - Devine, Pt F - Lake	
			N	Pt B- Lavender	
			N	Pt K - Devine.	
			N	Pt J – Packman	
			Y	Pt H - Wilson, Pt A - Pittock, Pt K - Devine, Pt G - Cunningham, Pt I - Spurgin, Pt J - Packman	
			N	Pt B- Lavender	
			Y	Pt B- Lavender	
			N	Pt E - Richards, Pt B- Lavender	
			N	Pt A - Pittock, Pt B- Lavender	
			N		
			N	Pt H – Wilson	
			N	Pt G - Cunningham, Pt I - Spurgin	
			N	Pt I – Spurgin	
			N		
			N		
			N		
			N		
			N	Pt B- Lavender	
			Y	Pt B- Lavender, Pt A - Pittock, Pt G - Cunningham, Pt I - Spurgin	
			N	Pt F - Lake, Pt H - Wilson,	
			Y	Pt B- Lavender, Pt K - Devine	
				Pt B- Lavender.	
			Y		
			N	Pt K - Devine	

GMC101215-0070

		Code A				
				N		
				Y		

Bundle

general file ✓ Hobbs

GMC – v – BARTON

SUGGESTED PANEL BUNDLES:

Patient A: Pittock ✓

Pages 8-232

Patient B: Lavender ✓

Code A

Pages 32-46, 59-73, 124-154, 240-242, 464-490, 637-677, 931-1033

Patient C: Page ✓

Pages 52-306

Patient D: Wilkie ✓

Code A

need DC ingarting

– need DC.

Pages 92-224, 302-303

NB.

1. This leaves out various admissions in the period 1994-1997.
2. These records are generally very poor quality – dark and obscured. Can better copies be obtained?

Patient E: Richards ✓

Pages 4-78, 90-110, 168-210, 238-301, 550, 677, 773-777

NB.

1. These records are also poor quality. The bundles contain second copies from around p400, where better quality is occasionally achieved. Can better quality copies be made, keeping the pagination above?

Patient F: Lake ✓

Code A

Pages 4-27, 74-78, 231, 236, 240-241, 300-309, 352-356, 368-395, 445-447, 459-461, 495-519, 552, 563-574, 604-622

NB.

1. This leaves out all dealings with Lake pre-1998 (lots of dealings with Dr Lord, LVF, renal failure).
2. The drug charts at p368-369 are very small and unclear. Can we do better?

Patient G: Cunningham ✓

Pages 44-173, 234-542, 458-466, 515-529, 635-647, 733-758, 829-838, 859-880, 898-903

NB.

1. This cuts all before 1998, but still includes substantial detail pre-final admission.

Patient H: Wilson ✓ **Code A**

Pages 9-85, 105-133, 142, 148-300, 327-343, 395-399, 420-425, 430-431

NB.

1. This includes the records from the start of 1997.

Patient I: Spurgin ✓ **Code A**

Pages 6-9, 23, 27, 43, 45, 47, 51, 57, 59, 61, 70, 73, 76, 89, 91, 94, 96, 98, 100, 102, 104, 106, 107, 110, 113, 116, 119, 122, 125, 126, 128, 130, 132, 134, 136, 139, 144, 146, 148, 150, 151, 154, 156, 158, 160, 162, 164, 166, 169, 171, 174, 178, 190, 192, 194, 196, 198, 201, 203, 205, 207, 209, 214, 219, 222, 225, 228, 231, 233, 298-375.

NB.

1. This is required because the notes usually contain two copies of each page, the second usually the better quality. However, Ford sometimes refers to the first, sometimes the second. I have used the second each time, for consistency. Will need to bear in mind when Ford cross-refers.
2. This includes notes from 1997.

Patient J: Packman ✓ — **Code A** .

Pages 29-33, 39-56, 61-88, 97-157, 170-182, 195-236 — used death cert.

Patient K: Devine ✓ **Code A**

Pages 21-197, 201, 203, 223-240, 255-261, 279, 281, 383, 395-404, 407, 411

NB.

1. This includes notes from 1998.
2. The drug charts are very poor quality – they need to be enlarged p279-281.

Patient L: Stevens

Pages 32-86, 92, 94, 96, 98, 100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 125-131, 144-150, 153-167, 205, 208-239, 255-256, 575-583, 596-605, 630, 634-637, 708-725, 734, 737, 1292, 1296, 1297, 1299, 1302, 1303-1307, 1309, 1311-1313, 1318, 1320, 1322, 1324, 1326, 1328, 1332, 1334, 1335, 1337, 1341-1346

NB.

1. This deals with notes from 1999 only, save for correspondence explaining ongoing pain in 1998. Have cut it down in this way to fit notes into one lever arch file.
2. There are two different copies of the notes. I have used the one with pagination running sequentially all the way through. Ford, unfortunately, has used the other one, so that his references to GWMH notes are in the following form: "Vol 3 p20." His method will not work for our planned single volume jury bundle. My method is required. Ford will need to change his references.

General notes:

1. **For each patient, I have used the typed pagination in the bottom centre of each page – in the following format (eg): "-546-"**
2. **When a draft bundle for each patient has been copied, it will be necessary to go through to check that each page is legible and to remove any unnecessary blank pages between the relevant pages.**

Ben FitzGerald
11th May 2009

GMC – v – BARTON

POTENTIAL ERRORS/MATTER FOR PROFESSOR FORD TO CONSIDER

Patient B: Lavender

1. Prof Ford sometimes refers to the pagination in the bottom centre of the page in the format (eg) "468 of 640" and sometimes to the pagination in the format (eg) "-468-". A consistent approach is required, using the "-468-" format. (See the draft chronology).

Patient C: Page

2. Prof Ford states the date of the diamorphine injection prescription is unclear. From the nursing notes (p170), it seems it must have been 2/3/98.
3. Prof Ford states the fentanyl patch was prescribed "x 3 days." From the drug chart (p272), should this be "x 5 days"?
4. The thioridizine and heminevrin prescribed on 28/2/98 (p276) was not prescribed by Dr Barton.

Patient D: Wilkie

5. The notes are in two files, both the same, but paginated sequentially across the two. Prof Ford generally refers to the first bundle, but then refers to the nursing notes from the second bundle (p635). For consistency, the Panel Bundles will come from the first bundle. The nursing notes are from p206 (see chronology).

Patient H: Wilson

6. Drug charts: Dr Barton prescribed 10ml (20mg) nocte – p262. There is an illegible prescription underneath it for something else. Prof Ford's report needs to make this clear. It currently seems from the report as though the 10ml (20mg) oramorph prescription was by another doctor.

Patient I: Spurgin

7. At paragraph 5.1, Prof Ford states Spurgin was transferred to Dryad Ward on 20/3/99. It was on 26/3/99 – as stated at para 5.7. (Same mistake at para 5.9).
8. Prof Ford states the oramorph prescribed on 26/3/99 was subcutaneous. This must be wrong, and drug chart shows it is wrong (report p3, notes p160).
9. Prof Ford gives the oramorph quantities in mg. From the drug charts, they are in fact in ml, meaning that the mg amount is double that stated (see report p3, drug charts p160, 164). Does this have any bearing on conclusions?
10. At paragraph 5.6, Prof Ford states that morphine was given 5mg three times on 20/3/99 and twice on 21/3/99. This appears to be incorrect (drug charts p326-328). 5mg was given twice on 20/3/99 and once on 21/3/99.
11. Dr Reid's entry in the clinical notes dated 23/3/99 must be wrong – it was 24/3/99. It comes after a referral on 24/3/99 (notes p373-4). Plus, Reid says it was 24/3/99 in correspondence (p301).

Patient J: Packman

12. Prof Ford used the handwritten page numbers at times. Pagination to be used is as at para 1.

Patient L: Stevens

13. Oramorph: Prof Ford states that on 20/5/99, 5mg was administered at 14.30, then 2.5mg at 18.30, 22.45 and 07.35 (report p4). This is wrong. The drug charts show it was 2.5ml (which is 5mg) that was administered at 14.30, and at 18.30, 22.45 and 07.35 – ie each time it is 2.5ml/5mg that was administered. Does this have a bearing on conclusions?

Ben FitzGerald
11th May 2009

Video Link of
Meeting Meetings

Cooper, Rachel

From: Code A 020 7189 5192 Code A
Sent: 02 June 2009 16:32
To: Cooper, Rachel
Cc: Code A GMC - Christine Challis (3441); Thorin Radford Code A)
Subject: FW: GMC Hearing - Dr Barton
Importance: High
Attachments: Witness schedule - FTPH (01.06.09) - 10202697_1.DOC

Dear Rachel

Thank you for your e-mail. With regards to your questions:

1. The hearing will take place in Hearing Room 1. However, that room is being used for other hearings all this week and on Saturday. So there will be no access until Monday morning.
2. The Panel Secretary will be Christine Challis.
3. The extra room you will have available (your waiting room) to use will be room 3.04. However this room will not be available until 1pm on Saturday, as we will need the room up until then for the other hearings running this week. It is therefore advisable for your boxes to be delivered here on Saturday 6 June 2009. As we will have a hearing running on Saturday we would ask that as little noise as possible is made when delivering the boxes to your waiting room. Please let me know when you will be couriering them over.
4. The person you will need to contact with regards to the video link will be Thorin Radford Code A Code A

I hope that covers everything. Please let me know if you need any further assistance.

Regards

Code A

Adjudication Section
General Medical Council
350 Euston Road
LONDON NW1 3JN

E: Code A
#: 020 7189 5192

From: Cooper, Rachel Code A
Sent: 02 June 2009 13:07
To: The Empanelment Team
Cc: Code A
Subject: RE: GMC Hearing - Dr Barton

Dear Code A

Further to Sarah's email (see below), I attach a copy of the timetable for the GMC witnesses.

You will note that we have only one witness who will be giving evidence via video-link from Malaysia on 12.06.09. My colleague Code A is arranging this and will be in touch with you

direct.

Please can you let me know which hearing room we will be using and the name of our Panel secretary. Also, I understand that we have been allocated a separate room to use/store our documents, instead of the usual lawyers' room, it would be helpful if you could let me know which room this is. I can then arrange for our boxes (100 plus) to be sent there.

Many thanks

Rachel

Rachel Cooper | Assistant Solicitor
for Field Fisher Waterhouse LLP
Code A

Consider the environment, think before you print!
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We use the term partner to refer to a member of Field Fisher Waterhouse LLP, or an employee or consultant with equivalent standing and qualifications.

From: Ellson, Sarah
Sent: Monday, June 01, 2009 4:27 PM
To: Code A
Cc: TheEmpanelmentTeam@gmc-uk.org; Cooper, Rachel; Code A
Subject: RE: GMC Hearing - Dr Barton

Dear Code A

The GMC will be represented by Tom Kark and Ben Fitzgerald. Myself. Rachel Cooper, Code A and Code A are expected to attend from FFW over the various days/weeks.

We have a long list of witnesses and my colleague Rachel Cooper will send a proposed running order through to you shortly.

Dr Barton is represented by Code A of the MDU, Counsel are Tim Langdale QC and Code A

Sarah Ellson | Partner
for Field Fisher Waterhouse LLP
Code A

From: Code A
Sent: Monday, June 01, 2009 3:27 PM
To: Ellson, Sarah
Subject: GMC Hearing - Dr Barton
Importance: High

Hi Sarah

Could you please advise as to who will be representing the GMC in the case of Dr Barton on 8 June – 21 August 2009, and any other possible attendees on behalf of the GMC.

If you know anything with regard to the Doctor's attendance or representation in this I would be grateful if you could fill me in on those details as well.

Thank You

Code A

Adjudication Section
General Medical Council
350 Euston Road
LONDON NW1 3JN

E: #: Code A

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General Medical Council

St James Building, 79 Oxford Street, Manchester, M1 6FQ

Regents Place, 350 Euston Road, London, NW1 3JN

The Tun, 4 Jacksons Entry, Holyrood Road, Edinburgh, EH8 8AE

Regus House, Falcon Drive, Cardiff Bay, CF10 4RU

20 Adelaide Street, Belfast, BT2 8GD

The GMC is a charity registered in England and Wales (1089278) and Scotland (SC037750)

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Tel: 1 800 330 5791 **Fax:** +44 1273 224040 **Email:** info@eyenetwork.com
Victoria House, 125 Queens Rd, Brighton, BN1 3WB, UK

Videoconference Booking Request (Eyenetwork Enquiry Ref# 38792)

(Please fill in or amend as appropriate then click the Send form button at the end of the page.)

Company to be invoiced:	Field Fisher Waterhouse LLP Manchester	**Contact name:**	
Address line 1:	27th Floor,city Tower	**City:**	
Address line 2:	Piccadilly Plaza	**Post code:**	
Telephone:	+44 (0)161 238 49	**Fax:**	
Email:	Code A		
Purchase order:		**VAT no. (for EU countries**	

1. Conference date: 12/06/2009

2. Where do you want us to book a room?

Details of Eyenetwork Studio 1

City :	Code A	**Start time:**	16:00	**End time:**	18:00
How many people will go to our room?	1	**Names:**	Code A		

Details of Eyenetwork Studio 2

City :		**Start time:**		**End time:**	
How many people will go to our room?		**Names:**			

3. Where will we connect to?

Details of private studio 1 or bridge

City:	Manchester	**Start time:**	09:00	**End time:**	12:30

Connecting site details

Company:	General Medical Counc	**Address:**	Regent's Place, 350 Euston Road,		
City:	London NW1 3JN	**State:**			
Contact name:	Code A	**Phone:**	02071895206	**Studio phone:**	07917609299
Email:				**Equipment type:**	Polycom
ISDN Nos.	Due to security reasons - the GMC dial out only			**IP Address:**	

4. Other details

Who dials out? Private site

What speed will you connect at? ○ 128kbs ○ 256kbs ◉ 384kbs ○ 512kbs

Will you use IP or ISDN ○ IP ◉ ISDN

Other requirements (subject to availability): document camera, DVD, PC Connection or Catering. Please write ir below.

Comments

I understand that all bookings are placed as per Eyenetwork's standard Terms and Conditions. Receipt of this complete means that I accept liability for all charges incurred by Eyenetwork on my behalf in relation to the above mentioned vide understand that the requested videoconference is not booked until I receive a Booking Confirmation from Eyenetwork.

☐ Tick to accept Terms and Conditions

Authorised by:	Rachel Cooper	**Title:**	Miss
Date:	05 June 2009	Send form >>	

Code A

From: Code A
Sent: 05 June 2009 12:03
To: Cooper, Rachel
Subject: Fw: Client Booking Confirmation 27330

Attachments: 27330 Field Fisher Waterhouse LLP Manchester Manchester.pdf; Nomad Offices - Etiqa Twins - Code A pdf; 27330 General Medical Council (London) London.pdf


27330 Field Fisher Waterhouse ...


Nomad Offices - Etiqa Twins - ...


27330 General Medical Council ...

----- Original Message -----
From: Code A
To: Code A
Sent: Fri Jun 05 11:20:04 2009
Subject: Client Booking Confirmation 27330

Dear Code A

Please open and print out the attached booking confirmation for:-

Date:	12th june
Dial coming from:	UK (GMC)
Start time:	0900 (BST)
Duration:	210 minutes
Locations:	Nomad Offices (Etiqa Twins), Code A
	General Medical Council (London), London
Our ref:	27330

PLEASE CONFIRM THAT YOU HAVE RECEIVED THIS PAPERWORK

Please forward the ISDN details to the private site and ensure a test call is arranged and made at least 24hrs before the conference date. As per our terms and conditions: should a test not take place and the conference fails due to technical difficulties or inadequate support at the private site full charges will apply.

Please remember that Eyenetwork offers an emergency bridge that can be set up within 5-10 minutes to stabilise the connection at competitive prices. We are open 0700 to 2200 GMT.

A map is attached to assist the attendee in locating the studio.

We would advise that you read through the confirmation to ensure all the details are as requested. Please also familiarise yourself with our terms and conditions.

Thank you for booking with Eyenetwork.

Best regards,

Code A
Eyenetwork
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1996-2008

Code A Lo-Call UK)
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Far End Code A Bureau Details:

Contact: Code A	Contact phone: Code A
Technical Contact: Technical Team	Technical phone
Company: Nomad Offices (Etiqa Twins)	Company phone
City/Town: Code A	Country: Code A
Studio Phone:	Contact mobile: Code A
Code A	Equipment: Tandberg, Edge 95 NPP MS
ISDN Numbers:	
#1 +603 2167 2990	#2 +603 2167 2970 #3 +603 2167 2961
IP Address 211.24.160.194	+603 2167 2984

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GLOBAL VIDEOCONFERENCE BOOKING

Tel: + 44 1273 324422 Fax: + 44 1273 224040 Email: info@eyenetwork.com

To:	Code A
Fax:	
Company:	General Medical Council (London)
From:	Code A
Date:	05 June 2009

Videoconference Booking Confirmation

Eyenetwork is pleased to confirm your videoconference booking. The booking details follow on the next two pages. Any queries please call on +44 1273 324422

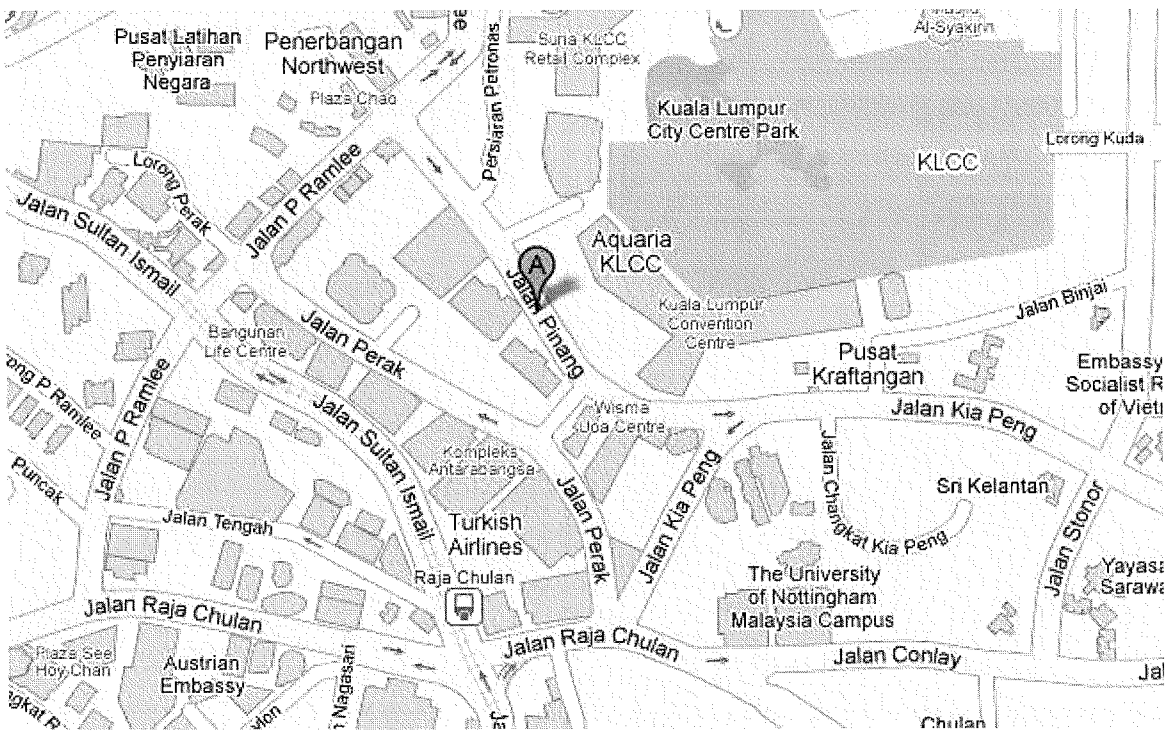
General Conference Information:

Booking Number: 27330		Duration: 210 (minutes)	
Attendance:	Code A		
Date/time Code A	12 June 2009 16:00		
Date/time London:	12 June 2009 09:00		
Call type:	Point-to-point	Speed:	384kbs
Who Initiates Call? You			
Special Instructions Please ensure a test call is arranged and made at least 24hrs prior to the conference date.			

eye network

Code A

Tel: +603-9207-9688



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Federal Letter

In reply please quote Code A

Please address your reply to the Fitness to Practise Directorate
Fax: 020 7915 3696

GENERAL MEDICAL COUNCIL
Protecting patients, guiding doctors

11 July 2002

Special Delivery

Dr J A Barton

Code A

Dear Dr Barton

A member of the Council, who is appointed under Rule 4 of the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988 to give initial consideration to cases, has asked me to notify you, under rule 6(3) of those Rules, that the Council has received from Hampshire Constabulary information which appears to raise a question whether, as a registered medical practitioner, you have committed serious professional misconduct within the meaning of section 36(1) of the Medical Act 1983. A copy of the relevant provisions of the Act is enclosed, together with copies of the Procedure Rules, the GMC's publication "Good Medical Practice" and of a paper about the GMC's fitness to practise processes.

In the information it is alleged that:

1. At the material times you were a registered medical practitioner working as a clinical assistant in elderly medicine at the Gosport War Memorial Hospital, Hampshire;

2. a. i. On 27 February 1998 Eva Page was admitted to Dryad Ward at Gosport War Memorial Hospital for palliative care having being diagnosed at the Queen Alexander Hospital with probable carcinoma of the bronchus

ii. On 3 March 1998 you prescribed diamorphine, hyoscine and midazolam to be administered subcutaneously via syringe driver

b. Your prescribing to Mrs Page of opiate and sedative drugs was inappropriate and/or unprofessional in that

i. she was started on opioid analgesia in the absence of prior psychogeriatric advice

ii. the medical and nursing records do not indicate that Mrs Page was distressed or in pain

iii. the specific reasons for commencing subcutaneous infusion of opiate and sedative drugs were not adequately recorded in medical or nursing records

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email gmc@gmc-uk.org www.gmc-uk.org
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iv. you knew or should have known that opiate and sedative drugs were prescribed in amounts and combinations which were excessive and potentially hazardous to a patient in Mrs Page's condition;

3. a. i. On 6 August 1998 Alice Wilkie was admitted to Daedalus Ward at Gosport War Memorial Hospital for observation following treatment at the Queen Alexandra Hospital for a urinary tract infection

ii. You prescribed diamorphine, hyoscine and midazolam to be administered subcutaneously

iii. These drugs were administered to Mrs Wilkie from 20 August 1998 until her death the following day

iv. Mrs Wilkie had not been prescribed or administered any analgesic drugs during her time on Daedalus Ward prior to this

b. Your prescribing to Mrs Wilkie of opiate and sedative drugs was inappropriate and/or unprofessional in that

i. insufficient regard was given to the possibility of alternative milder or more moderate treatment options

ii. the prescription for diamorphine, hyoscine and midazolam was undated

iii. the specific reasons for commencing subcutaneous infusion of opiate and sedative drugs were not adequately recorded in medical or nursing records

iv. you knew or should have known that opiate and sedative drugs were prescribed in amounts and combinations which were excessive and potentially hazardous to a patient in Mrs Wilkie's condition

c. Your management of Mrs Wilkie was unprofessional in that you failed to pay sufficient regard to Mrs Wilkie's rehabilitation needs;

4. a. i. On 11 August 1998 Gladys Richards was admitted to Daedalus Ward at Gosport War Memorial Hospital for rehabilitation following a hip replacement operation performed on 28 July 1998 at the Haslar Hospital, Southampton

ii. Despite recording that Mrs Richards was 'not obviously in pain' you prescribed oromorph, diamorphine, hyoscine, midazolam and haloperidol

iii. Although Mrs Richards did not have a specific life threatening or terminal illness you noted in the medical records that you were 'happy for nursing staff to confirm death'

iv. On 13 August 1998 Mrs Richards artificial hip joint became dislocated and underwent further surgery at the Haslar Hospital, returning to Daedalus ward on 17 August 1998

v. On 18 August 1998 you prescribed diamorphine, haloperidol, midazolam and, on 19 August 1998, hyoscine which was administered to Mrs Richards subcutaneously and by syringe driver until her death on 21 August 1998

vi. Between 18 and 21 August 1998 Mrs Richards received no foods or fluids

b. Your prescribing to Mrs Richards of opiate and sedative drugs was inappropriate and/or unprofessional in that

i. you knew or should have known that Mrs Richards was sensitive to oromorph and had had a prolonged sedated response to intravenous midazolam

ii. insufficient regard was given to the possibility of using milder or more moderate analgesics to control Mrs Richards pain

iii. opiate and sedative drugs were administered subcutaneously when you knew or should have known that Mrs Richards was capable of receiving oral medication

iv. You knew or should have known that opiate and sedative drugs were prescribed in amounts and combinations which were excessive and potentially hazardous to a patient in Mrs Richards' condition

d. Your management of Mrs Richards was unprofessional in that you failed to pay sufficient regard to Mrs Richards' rehabilitation needs.;

5. a. i. On 21 September 1998 Arthur Cunningham was admitted to Dryad ward at Gosport War Memorial Hospital with a large sacral necrotic ulcer with necrotic area over the left outer aspect of the ankle

ii. After reviewing Mr Cunningham you prescribed oromorph and later, via syringe driver, diamorphine, midazolam to which was added hyoscine on 23 September

iii. Although Mr Cunningham did not have a specific life threatening or terminal illness you noted in the medical records that you were 'happy for nursing staff to confirm death'

iv. Dosages were increased daily between 23 September 1998 and Mr Cunningham's death on 26 September 1998

b. Your prescribing to Mr Cunningham of opiate and sedative drugs was inappropriate and/or unprofessional in that

i. insufficient regard was given to the possibility of alternative milder or more moderate treatment options

ii. the reasons for the switch to subcutaneous infusion and the subsequent increases in dosages were not adequately recorded in medical or nursing records

iii. you knew or should have known that opiate and sedative drugs were prescribed in amounts and combinations which were excessive and potentially hazardous to a patient in Mr Cunningham's condition

c. Your management of Mr Cunningham was unprofessional in that you failed to pay sufficient regard to Mr Cunningham's rehabilitation needs;

6. a. i. On 14 October 1998 Robert Wilson was transferred from to Dryad Ward at Gosport War Memorial Hospital for rehabilitation, following treatment at the Queen Alexandra Hospital for a fractured left humerus

ii. Between 16 October 1998 and Mr Wilson's death on 18 October 1998 you prescribed oromorph, diamorphine, hyoscine and midazolam

iii. Diamorphine, hyoscine and midazolam were administered subcutaneously to Mr Wilson via syringe driver from 16 October 1998

b. Your prescribing to Mr Wilson of opiate and sedative drugs was inappropriate and/or unprofessional in that

i. the prescription for diamorphine, hyoscine and midazolam was undated

ii. the specific reasons for commencing subcutaneous infusion of opiate and sedative drugs and the subsequent increases in dosages were not adequately recorded in medical or nursing records

iii. you knew or should have known that opiate and sedative drugs were prescribed in amounts and combinations which were excessive and potentially hazardous to a patient in Mr Wilson's condition

c. Your management of Mr Wilson was unprofessional in that you failed to pay sufficient regard to Mr Wilson's rehabilitation needs.

Copies of information from Hampshire Constabulary may be found in the enclosed bundle of papers which is indexed at page 2.

The member has directed, in accordance with the Procedure Rules, that the information received from Hampshire Constabulary be referred to the Preliminary Proceedings Committee of the Council. That Committee will consider the information any written explanation provided by you, to determine whether the case should be referred to the Professional Conduct Committee of the Council for inquiry into a charge against you.

You are invited to submit at your earliest convenience a written explanation of the foregoing matter. The next meeting of the Preliminary Proceedings Committee will be held on 29 - 30 August 2002. It is in your interests that the Committee should have time to give careful consideration to any explanation you may wish to offer. You may therefore find it helpful to know that any explanation received by the Council before 21 August 2002 will be circulated to the Committee before the meeting. Any explanation received between 21 and 29 August 2002 will be placed before the Committee on the day of the meeting. Please address your explanation for the attention of Code A Conduct Case Presentation Team, fax number: 0207 915 3696.

If you intend to consult your medical defence society, or to take other legal advice, you should do so without delay.

In accordance with Section 35A(2) of the Medical Act 1983 (as amended), you are required to inform us, within 10 days of receipt of this letter, of the name and address of all of your current employers including the Health Authority with which you have a service agreement, any locum agencies with whom you are registered, and the hospital or surgery at which you are currently working. If you engage in any non-NHS work, you are also required to notify us, within the same period of time, of the name of the organisation or hospital by which you are employed, or have any working arrangements. If you are approved under Section 12 of the Mental Health Act, you must also notify us of this fact.

I enclose a form for you to complete and return in the envelope provided. Please forward this information directly to me. Upon receipt of these details, your employers will be notified of the Committee's consideration of the matter. **Failure to comply with this statutory requirement may result in further proceedings against you.**

The documents enclosed with this letter may contain confidential material. This material is sent to you solely to enable you to respond to the allegations in this letter: it must not be disclosed to anyone else, except for the purpose of helping you to prepare your defence.

Please will you write personally to acknowledge receipt of this letter quoting the reference shown above.

Yours sincerely

Code A

Assistant Registrar

Code A

Protecting patients, guiding doctors

29-30 Aug

Please quote our reference when communicating with us about this matter

Our ref: Code A
Your ref:
27th August 2002

THE MDU 1
MDU Services Limited
230 Blackfriars Road
London
SE1 8PJ

DX No. 36505
Lambeth

Legal Department of The MDU

Freephone: 0800
Telephone: 020 7202 1500
Fax: 020 7202 1663

Email: mdu@the-mdu.com
Website www.the-mdu.com

FAO: Code A
General Medical Council
178 Great Portland Street
London, W1

Also by fax: 0207-915-3696

Dear Madam

Re: Dr Jane Barton

I act for Dr Jane Barton, and write with reference to the letter to her from Code A of 11th July 2002. I would be grateful if this letter could be placed before the Preliminary Proceedings Committee meets to consider this matter on 29th – 30th August, representing Dr Barton's response in relation to the various matters raised in Code A letter.

It may be of assistance to the Committee to have some general information at the outset about Dr Barton, the Gosport War Memorial Hospital and in particular about the working environment in which Dr Barton had to practice at the Hospital at the relevant time in 1998. Dr Barton's case was in fact considered by the Interim Orders Committee in March this year. At that time the Committee determined that it was not satisfied it was necessary to make any order affecting Dr Barton's registration. Dr Barton gave evidence on oath before the Committee, which evidence dealt very much with these matters. It may therefore be of considerable assistance for the Committee to have access to Dr Barton's evidence then, and I have pleasure in enclosing a copy of the transcript of the proceedings on the 21st March from pages 5 to 23. The initial pages of the transcript involve representations from Counsel instructed for the GMC, raising issues within the expert reports to which the PPC already has access.

It may nonetheless be helpful for the Committee to have brief further review of Dr Barton's position here. Dr Barton qualified in 1972. She entered General Practice in 1976, joining her present practice in 1980, where she has practised in partnership on a minimum full-time basis. From 1996 to 1998 Dr Barton was a locality Commissioner, seconded to the Health Authority to assist in relation to purchasing issues, and from 1998 to 2000 she was the Chair of the local Primary Care Group.

In addition to her general practice duties, Dr Barton took up the post of the sole Clinical Assistant in elderly medicine at the Gosport War Memorial Hospital, a cottage hospital, in 1988. As the Committee will appreciate, the position of Clinical Assistant is a training post, and for Dr Barton it was a part-time appointment. Initially the position was for 4 sessions each week, one of which was allocated to Dr Barton's partners to provide out of hours cover. This was later increased, so that by 1988 the Health Care Trust had allocated Dr Barton 5 clinical assistant sessions, of which 1 ½ were now given

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to her partners in her practice for the out of hours aspects of the post. Dr Barton was therefore expected to carry out her day to day responsibilities in this post in effect within 3 ½ sessions each week.

Dr Barton worked on two of the wards at the Hospital, Daedalus, and Dryad Wards. The two wards had a total of 48 beds. About 8 of the beds on Daedalus Ward were for 'slow stream' stroke patients. The remaining beds were otherwise designated to provide continuing care for elderly patients.

Two Consultants in elderly medicine were response for each of the wards. Dr Althea Lord was responsible for Daedalus Ward and Dr Jane Tandy for Dryad Ward. Both Consultants, however, had considerable responsibilities elsewhere and thus their actual time at the Gosport War Memorial Hospital was significantly limited. Dr Lord for example was responsible for an acute ward and a continuing care ward at the Queen Alexandra Hospital in Portsmouth, and had responsibilities at a third site, St Mary's Hospital, also in Portsmouth. As a result, Dr Lord's presence at the hospital was limited to conducting a continuing care ward round on Daedalus Ward every other Monday. She would also be in the hospital, conducting outpatients on Thursday when she would carry out a further ward round in relation to the stroke patients.

Dr Tandy took annual leave towards the end of April 1998 followed immediately thereafter by [redacted] leave, so that she did not return to work until February 1999. The Trust took the decision that her post should not be filled by a locum. Dr Lord kindly volunteered to make herself available to cover, but the reality was that given her own position as a very busy consultant, she could not carry out a ward round on Dryad Ward. The Committee will appreciate therefore that for much of the relevant period in 1998 with which it is concerned, Dr Barton had no effective consultant support on one of the two wards for which she had responsibilities, with the consultant role on the other ward already being limited.

Dr Barton would arrive at the Hospital each morning when it opened about 7.30am. She would visit both wards, reviewing patients and liasing with staff, before she then commenced her General Practitioner responsibilities at 9am. She would return to the Hospital virtually every lunchtime. New patients, of whom there were about 5 each week, would usually arrive before lunchtime and she would admit patients, write up charts and see relatives. Quite often, in particular if she was the duty doctor, Dr Barton would return to the Hospital after GP surgery hours at about 7pm. She was concerned to make herself available to relatives who were not usually able to see her in the course of their working day. She would attend the Daedalus ward round on Mondays with Dr Lord, but was unable to attend the round for stroke patients on Thursdays.

Further, Dr Barton was concerned to make herself available even outside those hours when she was in attendance at the hospital. The nursing staff would therefore ring her either at her home or at her GP surgery to discuss developments or problems with particular patients. In the event that medicine was to be increased, even within a range of medication already prescribed Dr Barton it would be usual for the nursing staff either to inform Dr Barton of the fact that they considered it necessary to make such a change, or would inform her shortly thereafter of the fact that that increase had been instituted.

When Dr Barton first took up her post as clinical assistant the level of dependency of patients was relatively low. In general the patients did not have major medical needs. However, over time that position changed greatly. Patients who were increasingly dependent would be admitted to the wards, so that in time, and certainly by 1998, many of the patients were profoundly dependent with minimal Bartell scores. There was in consequence a considerable increase in the medical and nursing input required to care for such patients.

Further, at the relevant time the bed occupancy was about 80%. That was then to rise to approximately 90%. There would therefore be as many as 40 or more patients to be seen and/or reviewed by Dr Barton when she attended each day.

As the Committee might anticipate over the 10 years in which she was in post, Dr Barton was able to establish a very good working relationship with the nursing staff at the hospital. She found them to be responsible and caring. They were experienced, as indeed Dr Barton herself became, in caring for elderly dependent patients. Dr Barton felt able to place a significant measure of trust in the nursing staff.

Over the period in which Dr Barton was in post there was no effective increase in the numbers of nursing staff. With the significant number of patients and the considerable increase in dependency over the period, the nurses, like Dr Barton, were faced with an excessive workload.

The picture therefore that emerges by 1998 at this cottage hospital is one in which there had been a marked increase in the dependency of the patients, and indeed an increase in their numbers. There was limited consultant input, reduced still further by the fact that no locum was appointed to cover Dr Tandy's position. By this time the demands on Dr Barton were considerable indeed given that she was expected to deliver this significant volume of care within a mere 3 ½ sessions each week. As the Committee will appreciate from Dr Barton's evidence to the Interim Orders Committee, she raised this matter with management, albeit verbally, saying that she could not manage this level of care for the number of patients, but the reality was that there was no one else to do it. In due course Dr Barton felt unable to continue. She resigned from her post in 2000.

The Committee may feel it is of some significance that her position was then replaced, not with another part-time clinical assistant, but a full-time staff grade. Indeed, Dr Barton's present understanding is that this post may be increased to two full-time positions, and is a clear reflection of the very considerable demands upon her at the relevant time when she was struggling to cope with the care of patients. In addition, the Consultant cover to the two wards was increased to ten sessions per week in 2000. In 1998, Dr Barton had tried to raise the issue and could have walked away, resigning her position at that time. However, she felt obliged to remain, to support her colleagues, and more particularly, to care for her patients. In reality she was trying to do her best in the most trying of circumstances.

For Dr Barton caring for patients on a day by day basis therefore she was left with the choice of attending to her patients and making notes as best she could, or making more detailed notes about those she did see, but potentially neglecting others. In the circumstances, Dr Barton attended to her patients and readily accepts that her note

keeping suffered in consequence. The medical records therefore do not set out each and every review with a full assessment of a condition of a patient at any given point.

Similarly, in relation to prescribing Dr Barton felt obliged to adopt a policy of pro-active prescribing, giving nurses a degree of discretion and administering within a range of medication. As a result, if the patient's condition deteriorated such that they required further medication to ease pain and suffering, that medication could be given even though the staffing arrangements at the hospital were such that no medical staff could attend to see the patient. This was of assistance in particular out of hours. It was a practice adopted out of necessity, but one of which Dr Barton had trust and confidence in the nurses who would be acting on her prescripts, and indeed in which the nurses would routinely liase with her as and when increases in medication were made even within the authority of the prescription.

The Committee may feel that it is also of some significance that prescriptions of this nature by Dr Barton were inevitably reviewed on a regular basis by consultants when carrying out their ward rounds. At no time was Dr Barton ever informed that her practice in this regard was inappropriate.

Lest this observation, and indeed others, in relation to the degree of consultant support appear in any way to be critical of Dr Lord, Dr Barton is anxious to emphasise the evidence which she gave at the Interim Orders Committee in this regard – that Dr Lord was caring, thoughtful and considerate. The reality is that Dr Lord too had a considerable workload, and she did what she could given the constraints upon her.

Professor Ford comments in his report that there may have been inadequate senior medical input into the wards and that it would be important to examine this in detail. It does not appear from this that Professor Ford, or indeed the other experts, were informed by the police of the levels of nursing and medical staffing on the two wards in question. Such information would be of particular importance in evaluating properly any perceived failings on the part of 'junior medical staff' - Dr Barton. Indeed, as the committee will see from the questioning and responses on page 13 of the transcript of the IOC hearing, it may even be the case that Professor Ford was unaware that Dr Barton was the only member of the "non-consultant medical staff" and that she was part time at that.

It was in this context then that Dr Barton came to treat and care for the patients in question, and the committee will no doubt wish to consider that context carefully. With reference to the patients the committee may be further assisted by the following information:

Eva Page

Mrs Page was admitted to the Victory ward of the Queen Alexandra Hospital on 6th February 1998 suffering with anorexia, cachexia, depression and a 2 inch mass in her left hilum which was diagnosed on chest x ray as lung cancer. She had a history of heart failure and was receiving medication accordingly. It was felt that she was too ill to undergo bronchoscopy by way of further examination and on 12th February it was noted that she should receive palliative care and was not for resuscitation.

On 16th February she was noted to be confused and deteriorating gradually. She was later transferred to Charles ward, a palliative care ward at Queen Alexandra Hospital, and from time to time was noted to be confused, frightened and calling out.

On 25th February Mrs Page was seen by Dr Lord who stopped all medication and commenced Thioridazine, before she was then admitted to the Gosport War Memorial Hospital 2 days later. Dr Barton saw her the same day, clerking her in and assessing her condition. By this stage Mrs Page was totally dependent with a Bartell score of zero. Dr Barton reviewed the notes from the Queen Alexandra Hospital and was aware of the assessments which had been made, including that relating to palliative care.

Dr Barton prescribed Thioridazine and Oramorph on an 'as required' basis. Although she was not in pain at the time, Dr Barton appreciated that given the diagnosis of lung cancer, pain relief with opiates might become necessary. Mrs Page was clearly very ill. In Dr Barton's view she was indeed in terminal decline as others had assessed her to be. Dr Barton recorded in the notes that she was happy for the nurses to confirm death.

It was Dr Barton's practice to record this in a patient's notes if it was felt that the patient was likely to die. This in no way reflected the nature or quality of care to be given to a patient. If a patient died unexpectedly, the nursing staff would be required to call out a duty doctor, there usually being no medical presence at the hospital. If a death was not unexpected - recorded by Dr Barton in this way - Dr Barton was content the nurses should confirm death in the first instance, with Dr Barton or Dr Lord to certify death when next available at the hospital.

In any event, the following day Mrs Page was noted by the nursing staff to be very distressed, calling out for help and saying that she was afraid. Thioridazine was given, but with no effect and it appears to have become necessary to call out the duty doctor.

By 2nd March it seems that Mrs Page was now also in pain. She was assessed by Dr Barton in the morning, who recorded that there had been no improvement on major tranquillisers and she suggested adequate opioids to control Mrs Page's fear and pain. Dr Barton prescribed a Fentanyl patch which would have the effect of a continuous delivery, but which can take some time to be effective. To cover the intervening period, Dr Barton also prescribed 5mgs of Diamorphine intramuscularly, to be given then, with a further 5mgs at 3pm.

From the records it is clear that Dr Lord saw the patient later that day and was aware of the medication which had been given. Dr Lord made two entries in the notes, and in the second she recorded that she had spoken with Mrs Page's son. It is apparent from the note that there had been a further deterioration in Mrs Page's condition and that Dr Lord believed she was dying.

Dr Barton was concerned that Mrs Page might require medication via a syringe driver as a more effective way of alleviating her pain and distress. She prescribed Diamorphine in a 20 - 200mgs/24 hours range as required, together with Hyoscine and Midazolam for subcutaneous delivery. On 3rd March, before the syringe driver was set up by the nursing staff, Mrs Page was noted to have deteriorated still further, and a left sided CVA was

suspected. Midazolam and 20mgs of Diamorphine to be delivered over 24 hours was commenced by syringe driver at 10.50 that morning. That would be the equivalent of the 60mgs of Oramorph she had received in the previous 24 hours. Mrs Page died peacefully at 9.30 that night.

Alice Wilkie

Mrs Wilkie was admitted to the Queen Alexandra Hospital on 31st July 1998 with a history of severe dementia. Her Bartel score was recorded at 1. She was reviewed again on 1st August and the clinician attending her then considered her condition was such that she should not be resuscitated in the event of emergency. She was seen by Dr Lord on 4th August who recorded that her overall prognosis was poor and confirmed that she should not be resuscitated. The plan was for Mrs Wilkie to be admitted to the Gosport War Memorial Hospital for observation.

That transfer took place on 6th August, and Mrs Wilkie was seen initially By Dr Peters, one of Dr Barton's partners, Dr Barton being on sick leave at the time. Dr Lord assessed Mrs Wilkie again on 10th August, recording that her Bartel score was now 2, confirming that she was profoundly dependent.

The nursing records contain no entries for the period 6th August - 17th August, suggesting that this was a time when the staff were profoundly stretched, but on 17th August Mrs Wilkie was noted to have deteriorated over the weekend and that her condition was worsening, from a state which had already been poor.

Dr Barton believes that she saw the patient on 20th August. Although she has not made an entry in Mrs Wilkie's notes, a prescription of subcutaneous Diamorphine - 20 - 200mgsover 24 hours, together with Midazolam and Hyoscine is recorded. 30mgs of Diamorphine over 24 hours with 20mgs of Midazolam was commenced at 1.30 that afternoon, via syringe driver.

Dr Barton saw Mrs Wilkie the following morning, noting the marked deterioration over the past few days and that subcutaneous medication had been commenced. A nursing entry shortly before 1.00 that afternoon recorded that Mrs Wilkie's condition had deteriorated during the morning but she was said to be comfortable and free from pain. Mrs Wilkie died later that day at 6.00pm.

Mrs Gladys Richards

Dr Barton has of course made a lengthy statement concerning the treatment of Mrs Richards, contained in the Committee's papers at pages 153 - 163. The Committee will no doubt consider that statement in detail, being Dr Barton's explanation.

Arthur Cunningham

Mr Cunningham, who suffered from Parkinson's disease and depression, was admitted to the Gosport War Memorial Hospital on 21st September 1998, having been reviewed that day at the Dolphin Day Hospital by Dr Lord. As Dr Lord recorded in her letter to Mr

Cunningham's GP dictated the same day, Mr Cunningham had a large necrotic sacral ulcer which was extremely offensive. Dr Lord stated that he continued to be very frail.

In her notes in the hospital records, Dr Lord confirmed this, stating that the prognosis was poor and that Mr Cunningham should have 5 - 10mgs of Oramorph if he was in pain. 5mgs of Oramorph was then given at 2.50pm.

Dr Barton saw Mr Cunningham on 21st September, after his admission, and noted that he should have adequate analgesia. She was aware of Dr Lord's view of the poor prognosis and, agreeing with that assessment, Dr Barton recorded that she was happy for the nursing staff to record death.

The notes contain photographs of the sacral sore at the time of Mr Cunningham's admission, which are far from clear in the photocopies of the medical records now available. Dr Barton recalls, however, that it was about the size of a fist. Concerned that Mr Cunningham might require further pain relief in due course, through increasing pain and tolerance, Dr Barton prescribed Diamorphine - 20 - 200mgs, Midazolam 20 - 80mgs and Hyoscine over 24 hours subcutaneously, to ensure a continuous delivery of pain relief and that there would be no breakthrough pain.

A further dose of Oramorph was given at 8.15pm, but the nursing records show that Mr Cunningham appears to have remained in pain and required assistance to settle for the night. The syringe driver was commenced at 11.10 that night, delivering 20mgs of Diamorphine and 20mgs of Midazolam, following which Mr Cunningham slept soundly. He was noted to be much calmer the following morning.

Dr Barton would have seen Mr Cunningham each day. On 23rd September the nursing notes record that Mr Cunningham had become chesty and Hyoscine was added to dry the secretions on his chest. The records make clear the view that by this stage Mr Cunningham was dying. At 8pm on 23rd September the Midazolam was increased to 60mgs to maintain Mr Cunningham's comfort.

On 24th September Dr Barton noted that Mr Cunningham's pain was being controlled by the analgesia - just. The nursing records show that the night staff had reported Mr Cunningham was in pain when being attended to, and the day staff also noted pain. The Diamorphine was increased to 40mgs and the Midazolam to 80mgs accordingly. Mr Cunningham was then noted by the nurses to have a peaceful night.

The following day Mr Cunningham was seen by Dr Brooks, one of Dr Barton's partners, who confirmed that Mr Cunningham remained very poorly. Dr Barton also saw Mr Cunningham that day, writing up a prescription for Diamorphine for 40 - 200mgs, Midazolam at 20 - 200mgs, together with Hyoscine. In fact it was necessary to administer 60mgsof Diamorphine and 80mgs ofMidazolam/24 hours via the syringe driver in order to control the pain.

The following day, 26th September, Mr Cunningham's condition continued to deteriorate slowly. Diamorphine was increased to 80mgsover 24 hours, and the Midazolam to 100mgs to control the pain. Mr Cunningham then died peacefully at 11.15 that evening.

Our ref: ISPB/TOC/9900079/Legal
Your ref: 2000/2047
27th August 2002

Robert Wilson

Mr Wilson was admitted to the Queen Alexandra Hospital on 21st September 1998 with a fracture of the humerus. He had a history of alcohol abuse and heart failure, for which he was receiving medication. X ray revealed displacement, but Mr Wilson was unwilling to undergo surgery. He was in pain, receiving a range of painkillers, including opiates in the form of Morphine and Diamorphine.

On 29th September it was noted that resuscitation was considered inappropriate in view of the poor quality of life and the poor prognosis. On 8th October he was assessed by a psychogeriatrician who said that he was in low mood, presenting with a wish to die and disturbed sleep, possibly secondary to pain. She diagnosed early dementia, possibly alcohol related, and depression.

A decision was then made to transfer Mr Wilson to the Gosport War Memorial Hospital and Dr Barton clerked him in following his arrival on 14th October. Dr Barton noted the plan as gentle mobilisation. She believes Mr Wilson was in a degree of pain following his transfer, and she prescribed Oramorph in addition to Paracetamol on an 'as required' basis. Oramorph was given for pain relief at 2.45pm and 11.45pm on 14th October.

Dr Barton wrote a further prescription for Oramorph on 15th October, for 10mgs 4 hourly and 20mgs at night to control the pain in Mr Wilson's arm, which persisted. As a result of that Oramorph, Mr Wilson was noted to have settled and slept well.

Later that night Mr Wilson appears to have suffered what was thought to have been a silent myocardial infarction. Dr Knapman was called to see him on 16th October, and he increased the dose of Frusemide Mr Wilson was already receiving for his pre-existing heart failure. Dr Knapman noted a decline overnight with a shortness of breath, bubbling, and a week pulse. He had significant oedema in the arms and legs, and was unresponsive to the spoken word.

Dr Barton believes she may have come in to see Mr Wilson later in the day. The nursing record for 15th October had noted that Mr Wilson had difficulty in swallowing, and as he would have had difficulty in taking Oramorph, Dr Barton decided in view of his condition now that he should receive pain relief subcutaneously, converting to Diamorphine via syringe driver. She prescribed 20 - 200mgs of Diamorphine, 20 - 80mgs of Midazolam, together with Hyoscine for the chest secretions. The Diamorphine was then commenced at 20mgs over 24 hours, entirely consistent with the 60mgsofOramorph which had been required for pain relief the previous day. As a result, the nursing records show that after the Diamorphine was commenced, Mr Wilson had not been distressed and appeared comfortable.

On 17th October Dr Peters was called to see Mr Wilson. Dr Peters noted that he was comfortable, though he had deteriorated. Dr Peters also recorded that the nursing staff should verify death if necessary. Later that day the Diamorphine was increased to 40mgs over 24 hours and Midazolam added at 20mgs/24 hours. Mr Wilson was producing significant secretions, requiring suctioning, apparently being in heart failure, and the Hyoscine was also increased. In consequence, the secretions were noted not to disturb him, and he appeared to be comfortable.

Our ref: Code A
Your ref:
27th August 2002

The following day he was seen again by Dr Peters. The nurses noted that there had been a further deterioration in his already poor condition. The syringe driver was reviewed at 2.50 that afternoon, and the Diamorphine increased to 60mgs and the Midazolam to 40mgs. Mr Wilson continued to require regular suctioning and Dr Peters prescribed a further increase in the Hyoscine.

Mr Wilson continued to deteriorate in the course of the afternoon, and he died peacefully that night at 11.40pm.

Summary

Dr Barton endeavoured to care for her patients in what were clearly very difficult circumstances. She did not wish to abandon her consultant, her nursing colleagues and the patients. She raised her concerns with management, but to no avail. The information above about the individual patients will hopefully assist the Committee in considering this matter, coupled most importantly with an understanding of the situation in which Dr Barton found herself. I respectfully suggest that the Committee can reasonably conclude that this is not essentially a matter of professional conduct, but rather an issue of lack of resources and proper management.

Yours faithfully

Code A

C1

CHRONOLOGY

DR JANE ANN BARTON

February 1998 – October 1998	Original alleged period of inappropriate prescription to 5 patients (aet 75-91) at Gosport War Memorial Hospital, all of whom died at the hospital where Dr Barton was a part-time clinical assistant (Page, Wilkie, Richards, Cunningham and Wilson) (pages 4-8)
28th April 2000	Dr Barton resigned from part-time employment and continued in general practice (pages 413 and 424)
27th July 2000	Hampshire Constabulary first informed GMC of concern re Dr Barton re Richards (page 9)
21st June 2001	**First IOC Hearing** (only re Richards) **No order** (No transcript available)
10th July 2001	Professor Livesley's report re Richards: Death occurred earlier as a result of drugs than it would have done from natural causes (pages 19 – 52)
14th August 2001	Hampshire Constabulary letter: Insufficient evidence to support a viable prosecution against Dr Barton re Richards but continuing enquiries re other deaths and further review re Richards (page 13)
18th October 2001	Report of Dr Mundy re Cunningham, Wilkie, Wilson and Page (pages 53-58)
12th December 2001	Report of Professor Ford re 5 patients (pages 59-97)
6th February 2002	CPS decided not to institute criminal proceedings re Richards and disclose their papers to GMC (pages 15 and 16)
21st March 2002	**Second IOC Hearing** (partial transcript pages 413-431) **No order** (full transcript available)

End March 2002	Dr Barton's undertaking to the Health Authority not to prescribe opiates or benzodiazepines ceased (pages 453-4)
11th July 2002	Rule 6(3) Notice (pages 4-8)
27th August 2002	Response from MDU for Dr Barton (pages 404 - 412) (plus partial transcript of second IOC Hearing)
29th August 2002	PPC referred Dr Barton to PCC (hearing still awaited) (pages 1-399)
13th September 2002	Letter from GMC qua "President" to Dr Barton giving notice of third IOC Hearing
19th September 2002	**Third IOC Hearing** (pages 1-455) (transcript pages 437-455) **No order and a judgment that there was no new material since the second Hearing and it would be unfair to consider the matter further**
September 2002 ... to date and continuing:	Police investigation continues (pages 458 and 460). First papers of selected cases likely to go to CPS in December 04 or early 2005
February 2003	5 experts commence analysis of 88 Gosport War Memorial Hospital patients' records (page 460) work expected to finish October 2004. Classification of cases into 3 categories.
May 2004	Other experts (geriatric and palliative care) instructed to judge category 3 cases (page 460)
24th September 2004	GMC Letter of notification of 7th October IOC Hearing to Dr Barton
27th September 2004	Dr Barton's letter confirming intention to attend IOC Hearing on 7th October
27th September 2004	Letter from MDU for Dr Barton seeking adjournment and questioning compliance with rule 5

30th September 2004	Receipt by GMC of electronic copy of witness statement from Detective Chief Superintendent Steven Watts and supplementary documents re 19 further patients (pages 456 – 507). These pages (omitting irrelevant patients) were forwarded electronically forthwith to MDU and delivered in hard copy to MDU on the same day.
30th September 2004	GMC letter to MDU imparting refusal of adjournment by Chairman of the Committee and questioning the challenge to 24th September rule 5 compliance
30th September 2004	MDU letter to GMC re letter of 30th September from GMC maintaining rule 5 non-compliance, concern re absence of documentation and concerning merits e.g. re absence of present cause for concern from Dr Barton's practice
30th September 2004	GMC letter to Dr Barton (page 508)
1st October 2004	Hard copy of statements and documents (pages 456 – 507) delivered to Dr Barton, as agreed with MDU.
7th October 2004	**Fourth IOC Hearing**

Dr Jane Ann BARTON Code A

Interim Orders Panel

11 July 2008

Dr Barton

The Panel has carefully considered all the information before it today, including the submissions made by Code A on behalf of the General Medical Council (GMC), those made on your behalf by Mr Langdale, and the documentation provided. The Panel has noted that your case was previously considered by the former Interim Orders Committee on four occasions and no order was made. However, the Panel has considered your case in the light of the submissions and information presented to it today.

In accordance with Section 41A of the Medical Act 1983, as amended, the Interim Orders Panel has determined that it is necessary for the protection of members of the public, in the public interest and in your own interests to make an order imposing conditions on your registration for a period of 18 months as follows:

1. You must notify the GMC promptly of any professional appointment you accept for which registration with the GMC is required and provide the contact details of your employer and the PCT on whose Medical Performers List you are included.

2. You must allow the GMC to exchange information with your employer or any organisation for which you provide medical services.

3. You must inform the GMC of any formal disciplinary proceedings taken against you, from the date of this determination.

4. You must inform the GMC if you apply for medical employment outside the UK.

5. You must not prescribe diamorphine and you must restrict your prescribing of diazepam in line with BNF guidance.

6. You must provide evidence of your compliance with condition number 5 to the GMC prior to any review hearing of this Panel.

7. You must inform the following parties that your registration is subject to the conditions, listed at (1) to (6), above:

a. Any organisation or person employing or contracting with you to undertake medical work

b. Any locum agency or out-of-hours service you are registered with or apply to be registered with (at the time of application)

c. Any prospective employer (at the time of application)

d. The PCT in whose Medical Performers List you are included, or seeking inclusion (at the time of application)

e. Your Regional Director of Public Health.

In reaching its decision to place conditions on your registration, the Panel bore in mind that it is not its function to make findings of fact or to decide on the veracity of the allegations. The Panel has, however, given such weight as it considers to be appropriate to the allegations that you face.

In reaching this determination, the Panel has considered the information received initially from the Hampshire Constabulary concerning your alleged inappropriate prescribing for a number of patients at Gosport War Memorial Hospital and the investigations into their deaths. The Panel has noted from the overview of the Police investigation contained in the statement of Detective Superintendent Williams dated 16 January 2007, that the Crown Prosecution Service has decided not to proceed with a criminal prosecution. However, the Panel has noted the criticisms in respect of your prescribing and record keeping contained in the report by Professor Black, an expert commissioned by the GMC.

The Panel has also taken account of the information that the GMC has referred your case for a hearing by the Fitness to Practise Panel into allegations that your prescribing in relation to 12 patients at Gosport War Memorial Hospital was inappropriate. The Panel has noted that the GMC has decided to postpone the Fitness to Practise hearing until the outcome of the Coroner's inquest into the deaths of 10 patients at Gosport War Memorial

Hospital, eight of which are the subject of the Fitness to Practise hearing. The Panel notes that the inquest is expected to take place in the autumn of 2008.

Code A submitted that, in view of the serious concerns raised in relation to your prescribing, and the potential for risk to members of the public, or the public interest, it would be appropriate for the Panel to make an order imposing conditions on your registration. Code A submitted that the public interest includes the maintenance of public confidence in the profession.

The Panel also considered Mr Langdale's submission that there is no new information before the Panel today which justifies the imposition of an interim order. Mr Langdale submitted that although the allegation formulated by the GMC now relates to 12 patients rather than the five patients who were the subject of the investigation when the Interim Orders Committee last considered your case in October 2004, the position has not altered. Mr Langdale pointed out that you have continued to work as a general practitioner for the past four years and there have been no complaints about your practice.

The Panel had regard to the information that you entered voluntarily into an agreement with the Fareham and Gosport Healthcare Trust (the Trust) in which you gave an undertaking that you would not prescribe benzodiazepines or opiate analgesics with effect from 1 October 2002. The Panel has received a letter dated 9 July 2008 from Hazel Bagshaw, Community Pharmacy Development Manager at the Hampshire NHS Primary Care Trust (Hampshire PCT). Code A states that she has been closely monitoring your prescribing of benzodiazepines and opioid analgesics since your undertaking to restrict your prescribing of diazepam and diamorphine and confirms that you have maintained your compliance with the voluntary agreement which has been in place since October 2002.

While the Panel notes your compliance, it is concerned that the agreement is voluntary and that there are no formal arrangements in place to monitor your

continued compliance. Given that this is not the first time that your prescribing has been queried and that there are to be inquests in respect of ten of the patients concerned, public confidence in the profession could be undermined if you were left in unrestricted practice in the meantime. The Panel considers that it is necessary for the maintenance of public confidence in the medical profession for the GMC to exercise control over your compliance with restrictions on your prescribing.

Taking all the information into account, the Panel is satisfied that there may be impairment of your fitness to practise which poses a real risk to members of the public and which may adversely affect the public interest and, after balancing your interests and the interests of the public, the Panel has determined to impose an interim order to guard against such a risk.

The Panel has taken account of the issue of proportionality and has balanced the need to protect members of the public, the public interest and your own interests against the consequences for you of the imposition of conditions on your registration. Whilst it notes that the above conditions restrict your ability to practise medicine, the Panel considers that the conditions are necessary to protect members of the public and the public interest whilst these matters are resolved. It is therefore satisfied that the imposition of the above conditions on your registration is a proportionate response to the risks posed by your remaining in unrestricted practice.

In deciding on the period of 18 months, the Panel has taken into account the uncertainty of the time needed to resolve all the issues in this case.

The order will take effect today and will be reviewed within six months, or earlier if necessary.

Notification of this decision will be served upon you in accordance with the Medical Act 1983, as amended.

Legislation

General Medical Council

Regulating doctors
Ensuring good medical practice

Good Medical Practice (1995)

This guidance was withdrawn in **July 1998** and is no longer in effect. It is provided here for information only.

Good medical practice

GENERAL MEDICAL COUNCIL

Guidance to doctors

Being registered with the General Medical Council gives you rights and privileges. In return, you must meet the standards of competence, care and conduct set by the GMC.

This booklet sets out the basic principles of good practice. It is guidance. It is not a set of rules, nor is it exhaustive. The GMC publishes more detailed guidance on confidentiality, advertising and the ethical problems surrounding HIV and AIDS.

Providing a good standard of practice and care

1. Patients are entitled to good standards of practice and care from their doctors. Essential elements of this are professional competence, good relationships with patients and colleagues and observance of professional ethical obligations.

Good clinical care

2. You must take suitable and prompt action when necessary. This must include:

   - an adequate assessment of the patient's condition, based on the history and clinical signs including, where necessary, an appropriate examination;

   - providing or arranging investigations or treatment where necessary;

   - referring the patient to another practitioner, when indicated.

3. In providing care you must:

   - recognise the limits of your professional competence;

   - be willing to consult colleagues;

   - be competent when making diagnoses and when giving or arranging treatment;

   - keep clear, accurate, and contemporaneous patient records which report the relevant clinical findings, the decisions made, information given to patients and any drugs or other treatment prescribed;

- keep colleagues well informed when sharing the care of patients;
- pay due regard to efficacy and the use of resources;
- prescribe only the treatment, drugs, or appliances that serve patients' needs.

Treatment in emergencies

4. In an emergency, you must offer anyone at risk the treatment you could reasonably be expected to provide.

Keeping up to date

5. You must maintain the standard of your performance by keeping your knowledge and skills up to date throughout your working life. In particular, you should take part regularly in educational activities which relate to your branch of medicine.

6. You must work with colleagues to monitor and improve the quality of health care. In particular, you should take part in regular and systematic clinical audit.

7. Some parts of medical practice are governed by law. You must observe and keep up to date with the laws which affect your practice.

Teaching

8. The GMC encourages you to help the public to be aware of and understand health issues and to contribute to the education and training of other doctors, medical students, and colleagues.

9. All doctors should be prepared to supervise less experienced colleagues.

10. If you have special responsibilities for teaching you should develop the skills of a competent teacher. If you are responsible for training junior colleagues you must make sure they are properly supervised.

Maintaining trust

Professional relationships with patients

11. Successful relationships between doctors and patients depend on trust. To establish and maintain that trust you must:

- listen to patients and respect their views;
- treat patients politely and considerately;
- respect patients' privacy and dignity;
- give patients the information they ask for or need about their condition, its treatment and prognosis;
- give information to patients in a way they can understand;
- respect the right of patients to be fully involved in decisions about their care;
- respect the right of patients to refuse treatment or take part in teaching or research;

- respect the right of patients to a second opinion;
- ask patients' permission, if possible, before sharing information with their spouses, partners, or relatives;
- be accessible to patients when you are on duty;
- respond to criticisms and complaints promptly and constructively.

12. You must not allow your views about a patient's lifestyle, culture, beliefs, race, colour, sex, sexuality, age, social status, or perceived economic worth to prejudice the treatment you give or arrange.

13. If you feel that your beliefs might affect the treatment you provide, you must explain this to patients, and tell them of their right to see another doctor.

14. You must not refuse or delay treatment because you believe that patients' actions have contributed to their condition, or because you may be putting yourself at risk.

15. Because the doctor-patient relationship is based on trust you have a special responsibility to make the relationship with your patients work. If the trust between you and a patient breaks down either of you may end the relationship. If this happens, you must do your best to make sure that arrangements are made promptly for the continuing care of the patient. You should hand over records or other information for use by the new doctor as soon as possible.

Confidentiality

16. Patients have a right to expect that you will not pass on any personal information which you learn in the course of your professional duties, unless they agree. If in exceptional circumstances you feel you should pass on information without a patient's consent, or against a patient's wishes, you should read our booklet 'Confidentiality' and be prepared to justify your decision.

Abuse of your professional position

17. You must not abuse your patients' trust. You must not, for example:

- use your position to establish improper personal relationships with patients or their close relatives;
- put pressure on your patients to give money or other benefits to you or other people;
- improperly disclose or misuse confidential information about patients;
- recommend or subject patients to investigation or treatment which you know is not in their best interests;
- deliberately withhold appropriate investigation, treatment or referral.

Your duty to protect all patients

18. You must protect patients when you believe that a colleague's conduct, performance or health is a threat to them.

19. Before taking action, you should do your best to find out the facts. Then, if necessary, you must tell someone from the employing authority or from a regulatory body. Your comments about colleagues must be honest. If you are not sure what to do, ask an experienced colleague. The safety of patients must come first at all times.

If your health may put patients at risk

20. If you have or are carrying a serious communicable condition, or if your judgment or performance could be significantly affected by a condition or illness, you must take and follow advice from a consultant in occupational health or another suitably qualified colleague on whether, and in what ways, you should modify your practice. Do not rely on your own assessment of the risk to patients.

21. If you think you have or are carrying a serious communicable condition you must have all the necessary tests and act on the advice given to you by a suitably qualified colleague about necessary treatment and/or modifications to your clinical practice.

If in doubt...

22. The GMC publishes further advice on what to do when you believe that you or a colleague (including a health care worker for whom you are providing medical care) may be placing patients at risk in a note about the GMC's health procedures, and in its booklet 'HIV infection and AIDS: the ethical considerations'.

Working with colleagues

23. You must not discriminate against colleagues, including doctors applying for posts, because of your views of their lifestyle, culture, beliefs, race, colour, sex, sexuality, or age.

24. You must not make any patient doubt a colleague's knowledge or skills by making unnecessary or unsustainable comments about them.

Working in teams

25. Health care is increasingly provided by multi-disciplinary teams. You are expected to work constructively within such teams and to respect the skills and contributions of colleagues.

26. If you are leading a team, you must do your best to make sure that the whole team understands the need to provide a polite and effective service and to treat patient information as confidential.

27. If you disagree with your team's decision, you may be able to persuade other team members to change their minds. If not, and you believe that the decision would harm the patient, tell someone who can take action. As a last resort, take action yourself to protect the patient's safety or health.

Delegating care to non-medical staff and students

28. You may delegate medical care to nurses and other health care staff who are not registered medical practitioners if you believe it is best for the patient. But you must be sure that the

person to whom you delegate is competent to undertake the procedure or therapy involved. When delegating care or treatment, you must always pass on enough information about the patient and the treatment needed. You will still be responsible for managing the patient's care.

29. You must not enable anyone who is not registered with the GMC to carry out tasks that require the knowledge and skills of a doctor.

Arranging cover

30. You must be satisfied that, when you are off duty, suitable arrangements are made for your patients' medical care. These arrangements should include effective handover procedures and clear communication between doctors.

31. General practitioners must satisfy themselves that doctors who stand in for them have the qualifications, experience, knowledge and skills to perform the duties for which they will be responsible. A deputising doctor is accountable to the GMC for the care of patients while on duty.

Accepting posts

32. If you have formally accepted a post, you should not then withdraw unless the employer will have time to make other arrangements.

Decisions about access to medical care

33. You should always seek to give priority to the investigation and treatment of patients solely on the basis of clinical need.

Referring patients between a general practitioner and a specialist

34. A general practitioner referring a patient should give the specialist all relevant information about the patient's history and current condition. Specialists who have seen or treated a patient should, unless the patient objects, tell the general practitioner the results of their investigations, the treatment provided, and any other information necessary for the continuing care of the patient.

35. Specialists should not usually accept a patient without a referral from a general practitioner. If they do, they must inform the patient's general practitioner before providing treatment, unless the patient tells them not to or has no general practitioner. In these cases the specialist must be responsible for providing or arranging any aftercare which is necessary until another doctor agrees to take over.

36. In some areas of practice – accident and emergency, genito-urinary medicine, contraception and abortion services, and refraction – there may be good reasons for specialists to accept patients without referrals from general practitioners. In these circumstances specialists must keep general practitioners informed unless the patient tells them not to. If the general practitioner is not informed the specialist must provide any necessary aftercare until another doctor agrees to take over.

Probity in professional practice

37. You must be honest and trustworthy.

Financial and commercial dealings

38. You must be honest in financial and commercial matters relating to your work. In particular:

- if you charge fees, you must tell patients if any part of the fee goes to another doctor;
- if you manage finances, you must make sure that the funds are used for the purpose they were intended for and are kept in a separate account from your personal finances;
- you must not defraud patients or the service or organisation you work for;
- before taking part in discussions about buying goods or services, you must declare any relevant financial or commercial interest which you or your family might have in the purchase.

Conflicts of interest

39. You must act in your patients' best interests when making referrals and providing or arranging treatment or care. So you must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect your judgment. You should not offer such inducements to colleagues.

40. If you have financial or commercial interests in organisations providing health care or in pharmaceutical or other biomedical companies, these must not affect the way you prescribe for or refer patients.

- ***Financial interests in hospitals, nursing homes and other medical organisations***

  If you have a financial or commercial interest in an organisation to which you plan to refer a patient, you must tell the patient about your interest. When treating NHS patients you must also tell the health care purchaser.

- ***Accepting gifts or other inducements***

  You should not ask for or accept any material rewards, except those of insignificant value, from companies that sell or market drugs or appliances. You must not ask for or accept fees for agreeing to meet sales representatives.

- ***Hospitality***

  You may accept personal travel grants and hospitality from companies for conferences or educational meetings, as long as the main purpose of the event is educational. The amount you receive must not be more than you would normally spend if you were paying for yourself.

Signing certificates and other documents

41. Registered medical practitioners have the authority to sign a variety of documents, such as death certificates, on the assumption that they will only sign statements they believe to be true. This means that you must take reasonable steps to verify any statement before you sign a document. You must not sign documents which you believe to be false or misleading. Similarly, when providing references for colleagues, your comments must be honest and you must be able to back them up.

Advertising – providing information to colleagues and the public

42. If you advertise your services your advertisement must be honest. It must not exploit patients' vulnerability or lack of medical knowledge and may provide only factual information. All doctors' advertisements must follow the detailed guidance in the GMC's booklet 'Advertising'.

Research

43. If you are taking part in clinical trials of drugs or other research involving patients you must make sure that the research is not contrary to the patients' interests. Check that the research protocol has been approved by a properly constituted research ethics committee.

44. You must keep to all aspects of the research protocol and may accept only those payments approved by a research ethics committee. Your conduct in the research must not be influenced by payments or gifts.

45. You must always record your research results truthfully and maintain adequate records. In publishing these results you must not make unjustified claims for authorship.

46. You should read the guidance on confidentiality in research in the GMC's booklet 'Confidentiality'.

You must always be prepared to explain and justify your actions and decisions.

October 1995

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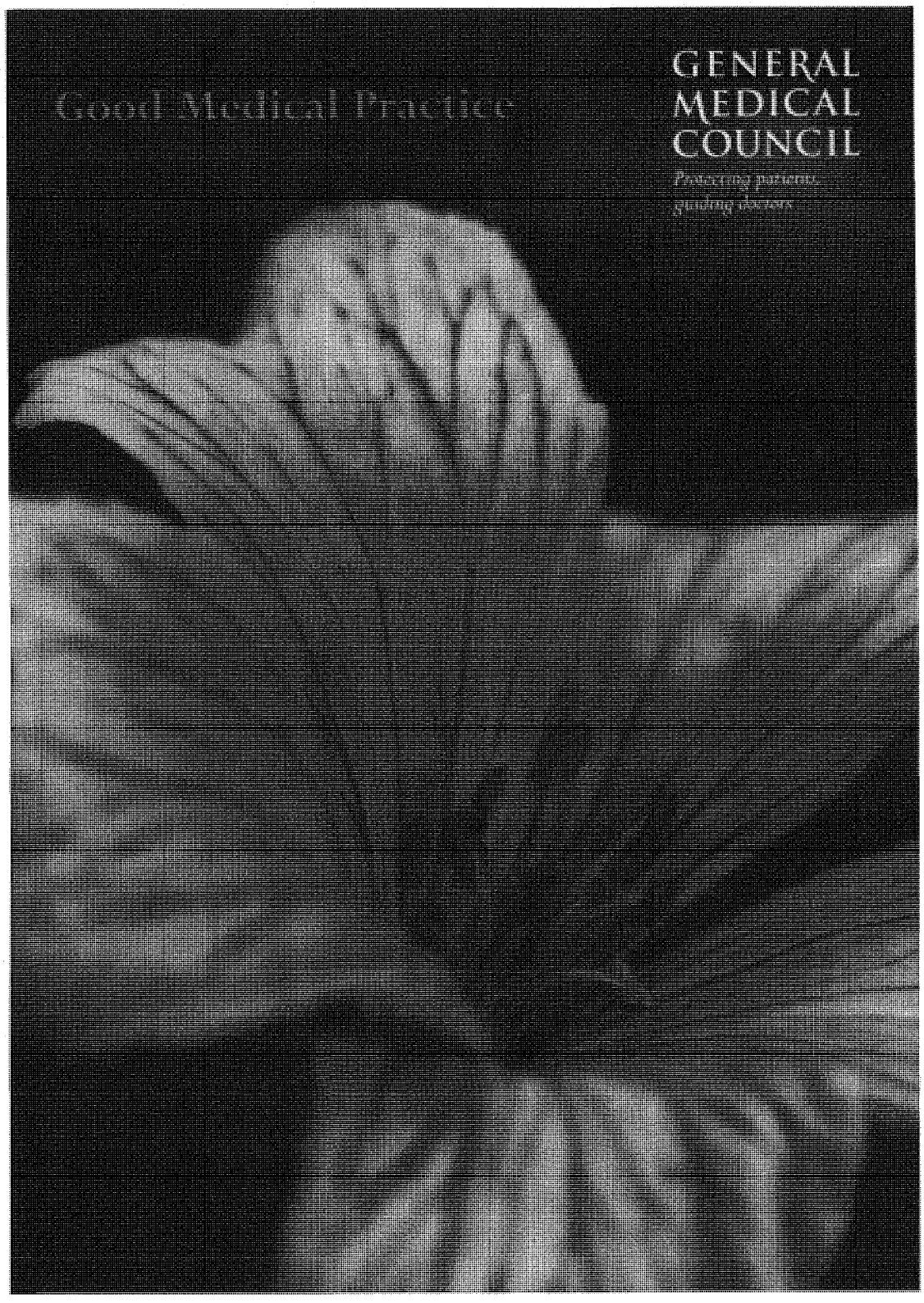
General Medical Council

Regulating doctors
Ensuring good medical practice

Good Medical Practice (1998)

This guidance was withdrawn in **September 2001** and is no longer in effect. It is provided here for information only.


Good Medical Practice
GENERAL
MEDICAL
COUNCIL
Protecting patients
guiding doctors

Duties and responsibilities of doctors

Being registered with the GMC gives you rights and privileges. In return you must fulfil the duties and responsibilities of a doctor set by the GMC.

The principles of good medical practice and the standards of competence, care and conduct expected of you in all aspects of your professional work are described in this booklet. They apply to all doctors involved in health care.

If serious problems arise which call your registration into question, these are the standards against which you will be judged.

Providing a good standard of practice and care

1. All patients are entitled to good standards of practice and care from their doctors. Essential elements of this are professional competence; good relationships with patients and colleagues; and observance of professional ethical obligations.

Good clinical care

2. Good clinical care must include:

   - an adequate assessment of the patient's condition, based on the history and clinical signs and, if necessary, an appropriate examination;
   - providing or arranging investigations or treatment where necessary;
   - taking suitable and prompt action when necessary;
   - referring the patient to another practitioner, when indicated.

3. In providing care you must:

   - recognise and work within the limits of your professional competence;
   - be willing to consult colleagues;
   - be competent when making diagnoses and when giving or arranging treatment;

- keep clear, accurate, and contemporaneous patient records which report the relevant clinical findings, the decisions made, the information given to patients and any drugs or other treatment prescribed;
- keep colleagues well informed when sharing the care of patients;
- pay due regard to efficacy and the use of resources;
- prescribe only the treatment, drugs, or appliances that serve the patient's needs.

Treatment in emergencies

4. In an emergency, you must offer anyone at risk the treatment you could reasonably be expected to provide.

Maintaining good medical practice

Keeping up to date

5. You must keep your knowledge and skills up to date throughout your working life. In particular, you should take part regularly in educational activities which develop your competence and performance.

6. Some parts of medical practice are governed by law or are regulated by other statutory bodies. You must observe and keep up to date with the laws and statutory codes of practice which affect your work.

Maintaining your performance

7. You must work with colleagues to monitor and maintain your awareness of the quality of the care you provide. In particular, you must:

   - take part in regular and systematic medical and clinical audit, recording data honestly. Where necessary you must respond to the results of audit to improve your practice, for example by undertaking further training;

   - respond constructively to assessments and appraisals of your professional competence and performance.

Teaching and training

8. The GMC encourages you to help the public to be aware of and understand health issues and to contribute to the education and training of other doctors, medical students and colleagues.

9. If you have special responsibilities for teaching you must develop the skills, attitudes and practices of a competent teacher. You must also make sure that students and junior colleagues are properly supervised.

10. You must be honest and objective when assessing the performance of those you have supervised or trained. Patients may be put at risk if you confirm the competence of someone who has not reached or maintained a satisfactory standard of practice.

References

11. When providing references for colleagues your comments must be honest and justifiable; you must include all relevant information which has a bearing on the colleague's competence, performance, reliability and conduct.

Maintaining trust

Professional relationships with patients

12. Successful relationships between doctors and patients depend on trust. To establish and maintain that trust you must:

- listen to patients and respect their views;
- treat patients politely and considerately;
- respect patients' privacy and dignity;
- treat information about patients as confidential. If in exceptional circumstances you feel you should pass on information without a patient's consent, or against a patient's wishes, you should follow our guidance on confidentiality and be prepared to justify your decision;
- give patients the information they ask for or need about their condition, its treatment and prognosis. You should provide this information to those with parental responsibility where patients are under 16 years old and lack the maturity to understand what their condition or its treatment may involve, provided you judge it to be in the child's best interests to do so;

- give information to patients in a way they can understand;
- be satisfied that, wherever possible, the patient has understood what is proposed, and consents to it, before you provide treatment or investigate a patient's condition[1];
- respect the right of patients to be fully involved in decisions about their care;
- respect the right of patients to decline treatment or decline to take part in teaching or research;
- respect the right of patients to a second opinion;
- be readily accessible to patients and colleagues when you are on duty.

13. The investigations or treatment you provide or arrange must be based on your clinical judgment of the patient's needs and the likely effectiveness of the treatment. You must not allow your views about a patient's lifestyle, culture, beliefs, race, colour, gender, sexuality, age, social status, or perceived economic worth to prejudice the treatment you provide or arrange.

14. If you feel that your beliefs might affect the treatment you provide, you must explain this to patients, and tell them of their right to see another doctor.

15. You must not refuse or delay treatment because you believe that patients' actions have contributed to their condition, or because you may be putting yourself at risk. If a patient poses a risk to your health or safety you may take reasonable steps to protect yourself before investigating their condition or providing treatment.

1 Guidance on consent is given in our booklet 'Serious Communicable Diseases'. We will publish further guidance on consent in 1999.

If things go wrong

16. Patients who complain about the care or treatment they have received have a right to expect a prompt and appropriate response. As a doctor you have a professional responsibility to deal with complaints constructively and honestly. You should co-operate with any complaints procedure which applies to your work. You must not allow a patient's complaint to prejudice the care or treatment you provide or arrange for that patient.

17. If a patient under your care has suffered serious harm, through misadventure or for any other reason, you should act immediately to put matters right, if that is possible. You should explain fully to the patient what has happened and the likely long- and short-term effects. When appropriate you should offer an apology. If the patient is under 16 and lacks the maturity to consent to treatment, you should explain the situation honestly to those with parental responsibility for the child.

18. If a patient under 16 has died you must explain, to the best of your knowledge, the reasons for, and the circumstances of, the death to those with parental responsibility. Similarly, if an adult patient has died, you should provide this information to the patient's partner or next of kin, unless you know that the patient would have objected.

19. Subject to your right not to provide evidence which may lead to criminal proceedings being taken against you, you must co-operate fully with any formal inquiry into the treatment of a patient. You should not withhold relevant information. Similarly, you must assist the coroner or procurator fiscal when an inquest or inquiry is held into a patient's death.

20. In your own interests and those of your patients, you must obtain adequate insurance or professional indemnity cover for any part of your work not covered by your employer's indemnity scheme.

21. You must do your best to establish and maintain a relationship of trust with your patients. Rarely, there may be circumstances in which you find it necessary to end a professional relationship with a patient. You must be satisfied your decision is fair and does not contravene the guidance in paragraph 13; you must be prepared to justify your decision if called on to do so. In such cases you should usually tell the patient why you have made this decision. You must also take steps to ensure that arrangements are made quickly for the continuing care of the patient. You should hand over records or other information to the patient's new doctor as soon as possible.

Abuse of your professional position

22. You must not abuse your patients' trust. You must not, for example:

- use your position to establish improper personal relationships with patients or their close relatives;
- put pressure on your patients to give or lend money or other benefits to you or other people;
- improperly disclose or misuse confidential information about patients;
- give patients, or recommend to them, an investigation or treatment which you know is not in their best interests;

- deliberately withhold appropriate investigation, treatment or referral;
- put pressure on patients to accept private treatment;
- enable anyone who is not registered with the GMC to carry out tasks that require the knowledge and skills of a doctor.

Your duty to protect all patients

23. You must protect patients when you believe that a doctor's or other colleague's health, conduct or performance is a threat to them.

24. Before taking action, you should do your best to find out the facts. Then, if necessary, you must follow your employer's procedures or tell an appropriate person from the employing authority, such as the director of public health, medical director, nursing director or chief executive, or an officer of your local medical committee, or a regulatory body. Your comments about colleagues must be honest. If you are not sure what to do, ask an experienced colleague or contact the GMC for advice. The safety of patients must come first at all times.

If your health may put patients at risk

25. If you have a serious condition which you could pass on to patients, or if your judgment or performance could be significantly affected by a condition or illness, you must take and follow advice from a consultant in occupational health or another suitably qualified colleague on whether, and in what ways, you should modify your practice. Do not rely on your own assessment of the risk to patients.

26. If you think you have a serious condition which you could pass on to patients, you must have all the necessary tests and act on the advice given to you by a suitably qualified colleague about necessary treatment and/or modifications to your clinical practice.

If in doubt ...

27. You will find more advice on what to do when you believe that you or a colleague (including a health care worker for whom you are providing medical care) may be placing patients at risk in our booklets 'Maintaining Good Medical Practice' and 'Serious Communicable Diseases'.

Working with colleagues

28. You must always treat your colleagues fairly. In accordance with the law, you must not discriminate against colleagues, including doctors applying for posts, on grounds of their sex, race or disability. And you must not allow your views of colleagues' lifestyle, culture, beliefs, race, colour, gender, sexuality, or age to prejudice your professional relationship with them.

29. You must not make any patient doubt a colleague's knowledge or skills by making unnecessary or unsustainable comments about them.

Working in teams

30. Health care is increasingly provided by multi-disciplinary teams. You are expected to work constructively within teams and to respect the skills and contributions of colleagues. Make sure that your patients and colleagues understand your role and responsibilities in the team, your professional status and specialty.

31. If you lead the team you must:

- take responsibility for ensuring that the team provides care which is safe, effective and efficient.
- do your best to make sure that the whole team understands the need to provide a polite, responsive and accessible service and to treat patient information as confidential.
- if necessary, work to improve your skills as a team leader.

32. When you work in a team you remain accountable for your professional conduct and the care you provide.

33. If you disagree with your team's decision, you may be able to persuade other team members to change their minds. If not, and you believe that the decision would harm the patient, tell someone who can take action. As a last resort, take action yourself to protect the patient's safety or health.

Arranging cover

34. You must be satisfied that, when you are off duty, suitable arrangements are made for your patients' medical care. These arrangements should include effective handover procedures and clear communication between doctors.

35. If you are a general practitioner you must satisfy yourself that doctors who stand in for you have the qualifications, experience, knowledge and skills to perform the duties for which they will be responsible. A deputising doctor is accountable to the GMC for the care of patients while on duty.

Accepting posts

36. If you have formally accepted any post, including a locum post, you must not then withdraw unless the employer will have time to make other arrangements.

Decisions about access to medical care

37. You should seek to give priority to the investigation and treatment of patients on the basis of clinical need.

The central role of the general practitioner

38. It is in patients' best interests for one doctor, usually a general practitioner, to be fully informed about, and responsible for maintaining continuity of, a patient's medical care. If you are a general practitioner and refer patients to specialists, you should know the range of specialist services available to your patients.

Delegation and referral

39. Delegation involves asking a nurse, doctor, medical student or other health care worker to provide treatment or care on your behalf. When you delegate care or treatment you must be sure that the person to whom you delegate is competent to carry out the procedure or provide the therapy involved. You must always pass on enough information about the patient and the treatment needed. You will still be responsible for the overall management of the patient.

40. Referral involves transferring some or all of the responsibility for the patient's care, usually temporarily and for a particular purpose, such as additional investigation, care or treatment, which falls outside your competence. Usually you will refer patients to another registered medical practitioner. If this is not

the case, you must be satisfied that such health care workers are accountable to a statutory regulatory body, and that a registered medical practitioner, usually a general practitioner, retains overall responsibility for the management of the patient.

41. When you refer a patient, you should provide all relevant information about the patient's history and current condition. Specialists who have seen or treated a patient should, unless the patient objects, tell the general practitioner the results of the investigations, the treatment provided and any other information necessary for the continuing care of the patient.

42. Doctors practising in most specialties should usually accept patients only with a referral from a general practitioner or other appropriate health care professional. However, in some areas of practice, for example, accident and emergency, genito-urinary medicine, contraception and abortion services and refraction, there may be good reasons for specialists to accept patients without a referral. Similarly, occupational health physicians, police surgeons and other doctors with dual responsibilities may accept patients for assessment or screening without a referral.

43. If you accept a patient without a referral from the patient's general practitioner, you must keep the general practitioner informed, provided you have the patient's consent. If sensitive information is involved, you should encourage patients to allow information to be passed to their general practitioners, but you must not disclose information to a general practitioner unless the patient agrees. Except in emergencies or when it is impracticable, you should inform the general practitioner before starting treatment. If you do not tell the patient's general practitioner, before or after providing treatment, you will be responsible for providing or arranging all after care which is necessary until another doctor agrees to take over.

Providing information about your services

44. If you publish or broadcast information about services you provide, the information must be factual and verifiable. It must be published in a way that conforms with the law and with the guidance issued by the Advertising Standards Authority. If you publish information about specialist services, you must still follow the guidance in paragraphs 42 and 43 above.

45. The information you publish must not make claims about the quality of your services nor compare your services with those your colleagues provide. It must not, in any way, offer guarantees of cures, nor exploit patients' vulnerability or lack of medical knowledge.

46. Information published about specialist services should include advice that patients cannot usually be seen or treated by specialists, either in the NHS or private practice, without a referral, usually from a general practitioner. If you are a specialist you should do all that you can to see that a similar statement is included in any advertisement for specialist services issued by an organisation which you are associated with.

47. Information you publish about your services must not put pressure on people to use a service, for example by arousing ill-founded fear for their future health. Similarly, you must not advertise your services by visiting or telephoning prospective patients, either in person or through a deputy.

Probity in professional practice

Financial and commercial dealings

48. You must be honest in financial and commercial matters relating to your work. In particular:

- if you charge fees, you must tell patients if any part of the fee goes to another doctor;
- if you manage finances, you must make sure that the funds are used for the purpose they were intended for and are kept in a separate account from your personal finances;
- you must not defraud patients or the service or organisation you work for;
- before taking part in discussions about buying goods or services, you must declare any relevant financial or commercial interest which you or your family might have in the purchase.

Conflicts of interest

49. You must act in your patients' best interests when making referrals and providing or arranging treatment or care. So you must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect your judgment. You should not offer such inducements to colleagues.

Financial interests in hospitals, nursing homes and other medical organisations

50. If you have financial or commercial interests in organisations providing health care or in pharmaceutical or other biomedical companies, these must not affect the way you prescribe for, treat or refer patients.

51. If you have a financial or commercial interest in an organisation to which you plan to refer a patient for treatment or investigation, you must tell the patient about your interest. When treating NHS patients you must also tell the health care purchaser.

52. Treating patients in an institution in which you have a financial or commercial interest may lead to serious conflicts of interest. If you do so, your patients and anyone funding their treatment must be made aware of your financial interest. In addition, if you offer specialist services, you must not accept patients unless they have been referred by another doctor who will have overall responsibility for managing the patient's care. If you are a general practitioner with a financial interest in a residential or nursing home, it is inadvisable to provide primary care services for patients in that home, unless the patient asks you to do so or there are no alternatives. If you do this, you must be prepared to justify your decision.

Accepting gifts or other inducements

53. You should not ask for or accept any material gifts or loans, except those of insignificant value, from companies that sell or market drugs or appliances. You must not ask for or accept fees for agreeing to meet sales representatives.

Hospitality

54. You may accept personal travel grants and hospitality from companies for conferences or educational meetings, as long as the main purpose of the event is educational. The amount you receive must not be more than you would normally spend if you were paying for yourself.

Signing certificates and other documents

55. Registered medical practitioners have the authority to sign a variety of documents, such as death certificates, on the assumption that they will only sign statements they believe to be true. This means that you must take reasonable steps to verify any statement before you sign a document. You must not sign documents which you believe to be false or misleading.

Research

56. If you take part in clinical drug trials or other research involving patients or volunteers, you must make sure that the individual has given written consent to take part in the trial and that the research is not contrary to the individual's interests. You should always seek further advice where your research involves adults who are not able to make decisions for themselves. You may also benefit from additional advice where your research involves children. You must check that the research protocol has been approved by a properly constituted research ethics committee.

57. You have an absolute duty to conduct all research with honesty and integrity:

- you must follow all aspects of the research protocol; you may accept only those payments approved by a research ethics committee;
- your conduct must not be influenced by payments or gifts;
- you must always record your research results truthfully and maintain adequate records;
- when publishing results you must not make unjustified claims for authorship;
- you have a duty to report evidence of fraud or misconduct in research to an appropriate person or authority.

This booklet is not exhaustive. It cannot cover all forms of professional practice or misconduct which may bring your registration into question. **You must therefore always be prepared to explain and justify your actions and decisions.**

We publish further guidance on a number of issues raised in this booklet. You will find a list of our publications at the back of this booklet.

July 1998

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2002 No. 2572

MEDICAL PROFESSION

The General Medical Council (Fitness to Practise Committees) (Amendment) Rules Order of Council 2002

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Made	*10th October 2002*
Laid before Parliament	*11th October 2002*
Coming into force	*1st November 2002*

At the Council Chamber, Whitehall, the 10th day of October 2002

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

Whereas in pursuance of paragraphs 19A, 20, 21, 21A, 21B and 22 of Schedule 1, and paragraphs 1, 5 and 5A(1), (2) and (3) of Schedule 4 to the Medical Act 1983[1], the General Medical Council have made the General Medical Council (Fitness to Practise Committees) (Amendment) Rules 2002.

And whereas by paragraph 24 of Schedule 1 and paragraph 1(5) of Schedule 4 to the said Act 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, and do hereby, approve the same as set out in the Schedule to this Order.

This Order may be cited as the General Medical Council (Fitness to Practise Committees) (Amendment) Rules Order of Council 2002, and shall come into force on 1st November 2002.

Commencement

para. 1: November 1, 2002

Code A

Clerk of the Privy Council

1 As amended by the Medical (Professional Performance) Act 1995 (c. 51) and the Medical Act 1983 (Amendment) Order 2000 (S.I. 2000/1803).

SCHEDULE

THE GENERAL MEDICAL COUNCIL (FITNESS TO PRACTISE COMMITTEES) (AMENDMENT) RULES 2002

The General Medical Council in exercise of their powers under paragraphs 19A, 20, 21, 21A, 21B and 22 of Schedule 1 and paragraphs 1, 5 and 5A(1), (2) and (3) of Schedule 4 to the Medical Act 1983[2], and after consulting such bodies of persons representing medical practitioners as appeared to the Council to be requisite, hereby make the following Rules:—

Commencement

Sch. 1 para.: November 1, 2002

1. Citation and commencement

These Rules may be cited as the General Medical Council (Fitness to Practise Committees) (Amendment) Rules 2002, and shall come into force on 1st November 2002.

Commencement

Sch. 1 para. 1: November 1, 2002

2. Interpretation

In these Rules—

"the Professional Conduct Rules" means the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988[3];

"the Health Rules" means the General Medical Council Health Committee (Procedure) Rules 1987[4];

"the Performance Rules" means the General Medical Council (Professional Performance) Rules 1997[5];

"the Interim Orders Committee Rules" means the General Medical Council (Interim Orders Committee) (Procedure) Rules 2000[6];

"the Constitution of Fitness to Practise Committees Rules" means the General Medical Council (Constitution of Fitness to Practise Committees) Rules 1996[7];

"the Constitution of Interim Orders Committee Rules" means the General Medical Council (Constitution of Interim Orders Committee) Rules 2000[8].

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2 The Act was amended by the Medical (Professional Performance) Act 1995 (c. 51) and by S.I. 2000/1803.

3 Appended to S.I. 1988/2255, and amended by Rules appended to S.I. 1989/656, 1990/1587, 1994/3298, 1996/1218, 1997/1529, 2000/2034 and 2000/2051.

4 Appended to S.I. 1987/2174, and amended by Rules appended to S.I. 1996/1219, 1997/1529, 2000/2034 and 2000/2051.

5 Appended to S.I. 1997/1529, and amended by Rules appended to S.I. 2000/2034 and 2000/2051.

6 Appended to S.I. 2000/2053.

7 Appended to S.I. 1996/2125, and amended by Rules appended to S.I. 2000/2051.

8 Appended to S.I. 2000/2052.

Commencement

Sch. 1 para. 2 definition of "the Professional Conduct Rules"- definition of "the Constitution of Interim Orders Co": November 1, 2002

3. Amendment of the Professional Conduct Rules

The Professional Conduct Rules shall be amended as follows:—

(a) in rule 2(1)—

(i) for the definition of "case relating to conviction" the following definition shall be substituted:—

> ""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 British Islands of a criminal offence, or has been convicted elsewhere of an offence which, if committed in England or Wales, would constitute a criminal offence;";

(ii) the definitions of "the Health Service Acts" and "person acting in a public capacity" shall be deleted; and

(iii) in the definition of "practitioner", for the words "or section 42" the words ", 41A, 41B or 44(5)" shall be substituted;

(b) for rule 5(1) the following rules shall be substituted:—

"5.—

Where information in writing is received by the Registrar from which it appears to him that a practitioner has been convicted of a criminal offence in the British Islands or has been convicted of an offence elsewhere which, if committed in England or Wales, would constitute an offence—

(a) in a case of conviction for an offence which the Registrar considers to be a minor motoring offence, the case shall not proceed further;

(b) in a case of conviction where a custodial sentence has been imposed (but excepting any case where the sentence was suspended), the Registrar may refer the case direct to the Professional Conduct Committee for inquiry unless it is his opinion that such direct referral would not be in the public interest;

(c) in any other case of conviction including any case which the Registrar has determined not to refer direct to the Professional Conduct Committee under rule 5(1)(b), the Registrar shall refer the case to the medical screener.

(1A) In a case where subparagraph (b) of paragraph (1) applies, the Registrar shall notify the practitioner as soon as practicable that the case has been referred to the Professional Conduct Committee.";

(c) rule 6(2) shall be deleted;

(d) for rule 6(3) the following rules shall be substituted:—

"(3) Unless the case is dealt with under the Health Committee (Procedure) Rules in pursuance of the proviso to rule 7 of these Rules, the medical screener shall refer to the Preliminary Proceedings Committee a case submitted to him under paragraph (1), if he is satisfied from the material available in relation to the case that it is

properly arguable that the practitioner's conduct constitutes serious professional misconduct.

(3A) The medical screener shall seek the advice of a lay member appointed under rule 4(5) in relation to any case submitted to him under paragraph (1) which he does not propose to refer to the Preliminary Proceedings Committee, and he shall direct that no further action be taken in the case only if the lay member so consulted agrees.";

(e) rule 6(4)(b) shall be deleted;

(f) in rule 6(5), for the words "statutory declaration" the word "complaint" shall be substituted;

(g) after rule 6(6), the following paragraphs shall be added:—

"(7) Subject to paragraph (8), an allegation of misconduct in a case relating to conduct may not be referred to the Preliminary Proceedings Committee under this rule if, at the time when the complaint was first made to the Council, more than five years had elapsed since the events giving rise to that allegation.

(8) Where an allegation of misconduct in a case relating to conduct is made more than five years after the events giving rise to that allegation, the medical screener may nevertheless direct that the case be referred to the Preliminary Proceedings Committee if, in his opinion, the public interest requires this in the exceptional circumstances of that case.";

(h) in rule 11(3) the words "and, if the practitioner so elects, by another medical practitioner nominated by him," shall be deleted;

(i) in rule 14, for the words "6(3)(a) or (d)" the words "6(3)" shall be substituted;

(j) in rule 17, for the words "the Solicitor" the words "the Registrar" shall be substituted;

(k) for rule 18 the following rule shall be substituted:—

"18.—

(1) Where the Preliminary Proceedings Committee has referred a complaint or information or a conviction to the Committee for inquiry, the Chairman of the Preliminary Proceedings Committee may if he thinks fit postpone the holding of the inquiry to such later date or meeting of the Committee as he may determine.

(2) Where the Registrar has referred a conviction to the Committee for inquiry, he may if he thinks fit postpone the holding of the inquiry to such later date or meeting of the Committee as he may determine.

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

(l) in rule 19(1), for the words "a complaint or information has been referred" the words "the Preliminary Proceedings Committee has referred a complaint or information or a conviction" shall be substituted;

(m) for rule 19(3) the following rules shall be substituted:—

"(3) Where, after the Registrar has referred a conviction to the Committee for inquiry, it appears to him that the inquiry should not be held, he may direct that the

inquiry shall not be held; and if at the time the direction is given no Notice of Inquiry has been sent, rule 17 shall not have effect.

(4) The Registrar shall, as soon as may be after any decision to cancel an inquiry, give notice thereof to the practitioner and to the complainant (if any).";

(n) in rule 22(3), for the words "the Solicitor" the words "the Registrar" shall be substituted;

(o) in rule 37(1A), for the words "the Solicitor" the words "the Registrar" shall be substituted;

(p) in rule 37(2), for the words "the Solicitor" the words "the Registrar" shall be substituted;

(q) in rule 37(3), for the words "the Solicitor" the words "the Registrar" shall be substituted;

(r) in rule 38(1)(a), for the words "the Solicitor shall, not later than six weeks" the words "the Registrar shall, not later than four weeks" shall be substituted;

(s) in rule 51(2) the words "and, if the practitioner so elects, by another medical practitioner nominated by him," shall be deleted; and

(t) for rule 55 the following rule shall be substituted:—

"55.— Record of proceedings

(1) The Registrar shall arrange for the proceedings of the Professional Conduct Committee to be recorded by electronic means or otherwise.

(2) Any party to the proceedings shall, on application to the Registrar, be furnished with a copy of the record of any part of the proceedings at which the party was entitled to be present.

(3) Paragraphs (1) and (2) do not apply to the deliberations of the Committee.".

Commencement

Sch. 1 para. 3(a)-(t): November 1, 2002

4. Amendment of the Health Rules

The Health Rules shall be amended as follows:—

(a) in rule 2(1) the definitions of "the Health Service Acts" and "person acting in a public capacity" shall be deleted;

(b) rule 6(2) shall be deleted;

(c) rule 6(4)(c) shall be deleted;

(d) in rule 6(4)(d), after the word "evidence" the words ", including medical evidence," shall be inserted;

(e) in rule 7(2) the words "and any medical practitioners nominated under rule 6(4)(c)" shall be deleted;

(f) in rule 8(1), for the words "including any reports by medical practitioners nominated by the practitioner under rule 6(4)(c)," ,the words "and any reports of which the practitioner has been informed under rule 6(4)(b)(ii)," shall be substituted;

(g) in rule 8(2) the words ", other than any made by a medical practitioner nominated under rule 6(4)(c)," shall be deleted;

(h) in rule 8(3) the words "and any medical practitioners nominated under rule 6(4)(c)" shall be deleted in each case where they appear;

(i) rule 8(6) shall be deleted;

(j) in rule 8(7)—

(i) the words "and any medical practitioners nominated under rule 6(4)(c)" shall be deleted; and

(ii) the words ", subject to the provisions of paragraph (6)" shall be deleted;

(k) in rule 9(3), after the words "under rule 8(4)", there shall be inserted the words, "or has ceased to comply with recommendations as varied under paragraph (2),";

(l) rule 9(4) shall be deleted;

(m) in the heading to rule 11, the words "by the Preliminary Proceedings Committee or by the Professional Conduct Committee" shall be deleted;

(n) in rule 11(1), after the words "has been referred" the words "by the President, by the Committee on Professional Performance, by the Assessment Referral Committee," shall be inserted;

(o) in rule 11(2), after the words "on which" the words "the President, the Committee on Professional Performance, the Assessment Referral Committee," shall be inserted;

(p) in rule 28(1), for the words "either by the Preliminary Proceedings Committee or by the Professional Conduct Committee" the words "to the Committee" shall be substituted;

(q) in rule 33G(b) the words "(with the omission of the references to reports by examiners nominated under rule 6(4)(c))" shall be deleted;

(r) for rule 38 the following rule shall be substituted:—

"38.— Record of proceedings

(1) The Registrar shall arrange for the proceedings of the Committee to be recorded by electronic means or otherwise.

(2) Any party to the proceedings shall, on application to the Registrar, be furnished with a copy of the record of any part of the proceedings at which the party was entitled to be present.

(3) Paragraphs (1) and (2) do not apply to the deliberations of the Committee."

; and

(s) Schedule 3 shall be deleted.

Commencement

Sch. 1 para. 4(a)-(s): November 1, 2002

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5. Amendment of the Performance Rules

The Performance Rules shall be amended as follows:—

(a) in rule 2(1) the definitions of "the Health Service Acts" and "person acting in a public capacity" shall be deleted;

(b) in rule 3(3), after the words "rule 5(6), (7) and (8)" the words "and rule 6(8)" shall be added;

(c) in rule 5—

(i) for paragraph (1)(b) the following paragraph shall be substituted:—

"(b) was received by the Council less than five years from the date of the events giving rise to it, save that where a complaint or information was received more than five years after the events giving rise to it, the medical screener may nevertheless take action under

rule 6 if, in his opinion, the public interest requires this in the exceptional circumstances of the case; and";

(ii) in paragraph (1)(c)(ii), for the words "may be" the word "is" shall be substituted;

(iii) paragraphs (3) to (5) shall be deleted; and

(iv) in paragraphs (6) to (8), for the words "further action", wherever they appear, the word "action" shall be substituted;

(d) for rules 6(2) and (3), the following rules shall be substituted:—

"(2) Where the conditions in rule 5(1) are satisfied and the circumstances specified in paragraph (1) apply, the medical screener shall direct the Registrar to notify the practitioner—

(a) of the complaint or information received; and

(b) where rule 4 applies, that the medical screener has also taken into account a complaint or information previously received by the Council.

(3) A notice under paragraph (2) shall include—

(a) copies of the complaint or information received;

(b) copies of any previous complaint or information which the medical screener has taken into account under rule 4;

(c) copies of any information about or observations on the case received in response to enquiries made under rule 5(2) and which the screener has taken into account when considering the case;

(d) a copy of these Rules; and

(e) a statement prepared by the medical screener of his reasons why an assessment needs to be carried out.

(3A) A notice under paragraph (2) shall invite the practitioner—

(a) to agree, within the period of 28 days of the notice being given or sent, that an assessment shall be carried out; and

(b) to submit within the same period any observations on the case.";

(e) in rule 6(4), for the words "paragraph (2)(b)" the words "paragraph (3A)(a)" shall be substituted;

(f) for rule 6(5), the following rule shall be substituted:—

"(5) Where the practitioner does not agree within the period referred to in paragraph (3A)(a) that an assessment should be carried out, the medical screener may—

(a) refer the case to the Assessment Referral Committee; or

(b) on receiving the practitioner's observations under paragraph (3A)(b) or other information decide, subject to paragraph (8), that no further action needs to be taken in the case.";

(g) in rule 6(8), after the words "decide under", the words "paragraph (5)(b) or" shall be inserted;

(h) at the end of rule 6(10) the words "and shall state the medical screener's reasons for his decision where subparagraph (b) of paragraph (7) applies" shall be added;

(i) the following additional paragraphs shall be added to the end of rule 8:—

"(7) Where an assessment is to include structured tests of the doctor's professional knowledge and skills, the case co-ordinator may appoint one or more additional members to the Assessment Panel, and those members shall be involved in the

assessment only for the purposes of assessing the practitioner's performance in those tests and contributing in this respect to the report of the Panel under rule 13.

(8) The practitioner's performance in such tests may be assessed also by one or more of the members of the Panel appointed under paragraphs (1) to (6).

(9) The provisions of rules 10 and 11 shall not apply to any members of an Assessment Panel appointed under paragraph (7).";

(j) in rule 12(1)(a), after the words "rule 6(4)", the words "or rule 6(7)(a)" shall be added;

(k) in rule 13(1)(a), after the words "under rule 6(1)" the words "or following the practitioner's agreement under rule 6(4) or (7)" shall be inserted;

(l) at the end of rule 26(4) the words "and shall state the case co-ordinator's reasons for his decision where subparagraph (b) of paragraph (1) applies" shall be added;

(m) in rule 30E(3), for the words "rules 5(4) and 6(2)(a)(ii)" the words "rule 6" shall be substituted;

(n) in rule 31 the words "5(3)," shall be deleted;

(o) in rule 32—

(i) in paragraph (a), for the words "rules 5(4)(c)(ii) and" the word "rule" shall be substituted;

(ii) for the words "rule 6(2)(b)" the words "rule 6(3A)(a)" shall be substituted;

(iii) for the words "rules 5(4)(b)(ii) and 6(2)(b)" the words "rule 6(3A)(a)" shall be substituted;

(iv) for the words "12(3)(b)", wherever they appear, the words "12(3)(c)" shall be substituted;

(p) rule 33(2) shall be deleted;

(q) rule 34 shall be deleted;

(r) in paragraph 9(1) of Schedule 1,

(i) after the word "adjourned" the words "or where paragraph 12(3)(b) of Schedule 3 or paragraph 14(3)(a) of Schedule 3 applies" shall be inserted; and

(ii) for the words "rules 5(4) and 6(2)(a)(ii)" the words "rule 6" shall be substituted;

(s) for paragraph 10(a) of Schedule 1 the following paragraph shall be substituted:—

"(a) to submit to examination by one or more doctors chosen by the President from the persons nominated under Schedule 2 to the Health Rules;";

(t) for paragraph 12 of Schedule 1 the following paragraph shall be substituted:—

"12.— Record of proceedings

(1) The Registrar shall arrange for the proceedings of the Committee to be recorded by electronic means or otherwise.

(2) Any party to the proceedings shall, on application to the Registrar, be furnished with a copy of the record of any part of the proceedings at which the party was entitled to be present.

(3) Paragraphs (1) and (2) do not apply to the deliberations of the Committee.";

(u) for paragraphs 2A(1)(c) and (d) of Schedule 3 the following paragraphs shall be substituted:—

"(c) if satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest or in the interests of the

practitioner, replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former; or

(d) if satisfied that the public interest, including the protection of members of the public or the interests of the practitioner would be adequately served by an order for interim conditional registration, replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former.";

(v) in paragraph 10(e) of Schedule 3, for the words "is seriously deficient" the words "has been seriously deficient" shall be substituted;

(w) the following additional subparagraph shall be added to the end of paragraph 10 of Schedule 3:—

"(j) the Committee shall announce any decisions taken under subparagraphs (h) and (i) in such terms as they think fit."

; and

(x) for paragraph 12(2) of Schedule 3 the following paragraph shall be substituted:—

"(2) Where the Committee is to hold a resumed hearing and, from information subsequently received, it appears to the case co-ordinator that—

(a) the practitioner is not complying with one or more requirement imposed on him as conditions of his registration, or

(b) for some other reason the Committee should resume their consideration of the case at an early date,

the case co-ordinator may direct that the Committee shall hold a resumed hearing at an earlier date than the date on which they might otherwise have held a resumed hearing.".

Commencement

Sch. 1 para. 5(a)-(x): November 1, 2002

6. Amendment of the Interim Orders Committee Rules

The Interim Orders Committee Rules shall be amended as follows:—

(a) the following additional paragraph shall be added to the end of rule 12:—

"(9) Notwithstanding any other provisions of this rule, an interim order may, subject to the prior written consent of the practitioner, be reviewed without an oral hearing, and in such cases—

(a) paragraphs (3), (4), (5) and (6) shall not apply,

(b) rule 6 shall not apply,

(c) it shall not be open to the Committee to exercise their powers under paragraphs (7)(b), (c), (d), or (e), or under paragraph (8),

(d) a decision under paragraph (7)(a) may be taken by the Chairman or Deputy Chairman of the Committee, on behalf of the Committee, having consulted, and with the agreement of, one other member of the Committee,

(e) if neither the Chairman nor the Deputy Chairman is available to take a decision under subparagraph (d), the decision may be taken by another

member of the Committee authorised to act in this capacity by the President, and

(f) where the Chairman, Deputy Chairman or other member taking a decision under subparagraph (d) or (e) is a medical member, the other member of the Committee consulted shall be a lay member, and vice versa."

; and

(b) for rule 16 the following rule shall be substituted:—

"16.— Record of proceedings

(1) The Registrar shall arrange for the proceedings of the Committee to be recorded by electronic means or otherwise.

(2) Any party to the proceedings shall, on application to the Registrar, be furnished with a copy of the record of any part of the proceedings at which the party was entitled to be present.

(3) Paragraphs (1) and (2) do not apply to the deliberations of the Committee.".

Commencement

Sch. 1 para. 6(a)-(b): November 1, 2002

7. [...][9]

8. [...][10]

EXPLANATORY NOTE

(This note is not part of the Order)

The Rules approved by this Order make amendments to the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988, the General Medical Council Health Committee (Procedure) Rules 1987, the General Medical Council (Professional Performance) Rules 1997, the General Medical Council (Interim Orders Committee) (Procedure) Rules 2000, the General Medical Council (Constitution of Fitness to Practise Committees) Rules 1996, and the General Medical Council (Constitution of Interim Orders Committee) Rules 2000.

These Rules:

(a) remove the requirement for complaints to the Council to be supported by a sworn statement before the Council may act on them (rules 3(c), 4(b) and 5(c)(i)).

9 Revoked by rule 7 (as set out in SI 2003/1344 Sch.1) by General Medical Council (Constitution of Fitness to Practise Committees) (Transitional Arrangements) Rules Order of Council 2003/1344 Sch.1 para.1 (July 1, 2003)

10 Revoked by rule 7 (as set out in SI 2003/1344 Sch.1) by General Medical Council (Constitution of Fitness to Practise Committees) (Transitional Arrangements) Rules Order of Council 2003/1344 Sch.1 para.1 (July 1, 2003)

(b) permit the Registrar of the Council to refer specified types of cases of conviction direct to the Professional Conduct Committee (rule 3(b)).
(c) introduce a time limit of five years for complaints to be made to the Council for investigation under the conduct or performance procedures except in exceptional circumstances (rules 3(g) and 5(c)(i)).
(d) permit proceedings of the various fitness to practise committees which consider cases to be recorded electronically (rules 3(t), 4(r), 5(t) and 6(b)).
(e) modify the arrangements whereby doctors being investigated under the health procedures may provide medical evidence in their defence (rule 4(c) and (d)).
(f) streamline the process for referring doctors to the Health Committee where such referral is deemed necessary (rule 4(i)).
(g) streamline the procedures for requesting a doctor to undergo a performance assessment, where an assessment is deemed necessary (rule 5(c) to (g)).
(h) provide that additional assessors may participate in a performance assessment for part of the assessment, if this is deemed appropriate (rule 5(i)).
(i) remove the need for the Interim Orders Committee to meet every time it reviews a case; instead two members of the Committee may review certain cases on paper, without a hearing, if the doctor concerned agrees (rule 6(a)).
(j) reduces the quorum of each of the fitness to practise committees which consider cases to three (rules 7 and 8).
(k) include sundry other minor corrections and amendments to improve the effectiveness of the procedures.

STATUTORY INSTRUMENTS

1988 No. 2255

MEDICAL PROFESSION

The General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules Order of Council 1988*

Made	21st December 1988
Laid before Parliament	22nd December 1988
Coming into force .	15th January 1989

At the Council Chamber, Whitehall, the 21st day of December 1988
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 1983(a) the General Medical Council have made the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988:

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 1988, and shall come into force on 15th January 1989.

The General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules Order of Council 1980(b) is hereby revoked.

Code A
Clerk of the Privy Council

*as amended by the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) (Amendment) Rules 1988, 1989, 1990, 1994 and 1996, the General Medical Council (Professional Performance) Rules 1997, the General Medical Council (the Professional Conduct Committee, the Health Committee, the Committee on Professional Performance) (Amendment) Rules 2000, the General Medical Council (Fitness to Practise Committees) Rules 2000 and the General Medical Council (Fitness to Practise Committees) (Amendment) Rules 2002.

(a) 1983 c.54

(b) S.I. 1980/858.

APPENDIX

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

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SCHEDULE 1 - *Provisions as to meetings of the Preliminary Proceedings Committee and of the Professional Conduct Committee*
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The General Medical Council, in exercise of their powers under paragraphs 1 and 5 of Schedule 4 to the Medical Act 1983, and after consulting with such bodies of persons representing medical practitioners as appeared to the Council to be requisite, as required by those paragraphs, hereby make the following Rules:-

PART I

PRELIMINARY

Citation and commencement

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

Interpretation

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

"the Act" means the Medical Act 1983;

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

offence, or has been convicted elsewhere of an offence which, if committed in England or Wales, would constitute a criminal offence;

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

"the Committee" means, in Part III of the rules, the Preliminary Proceedings Committee and, in Parts IV to VIIA of the rules, the Professional Conduct Committee;

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

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

"the Health Committee (Procedure) Rules" means Rules made by the Council in the exercise of the powers conferred on them by paragraph 1 of Schedule 4 to the Act and references to those Rules are to the Rules currently in force and, unless the contrary intention appears, to such Rules as amended;

"lay member of the Council" means a member who is nominated in accordance with paragraph 4 of Schedule 1 to the Act, and who is neither fully registered nor the holder of any qualification registrable under the Act;

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

"medical member of the Council" means a member who is elected or appointed to the Council in accordance with paragraphs 1-3 of Schedule 1 to the Act and who is fully registered, provisionally registered, or registered with limited registration;

"medical screener" means any medical member of the Council appointed under rule 4(2);

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

"practitioner" means a person registered (in any way) under the Act and includes a person who has previously been registered and whose registration is currently suspended under section 36, 41A, 41B or 44(5) of the Act; and references to the practitioner, in relation to any complaint, information or proceedings, are references to the practitioner who is alleged to have been convicted, or whose fitness to practise or conduct is or has been called into question, as the case may be;

"the President" means the President of the Council

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

"the Registrar" means the Registrar of the Council;

"the Restoration Regulations" means the General Medical Council (Restoration and Registration Fees Amendment) Regulations 2003([1]);

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

"the Voluntary Erasure Regulations" means the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003([2]);

(1A) Any reference to a direction given under rule 37, or to the exercise of powers under that rule, by the Chairman of the Preliminary Proceedings Committee shall in relation to a case where such a direction was given or such powers exercised before 3rd August 2000 be read as a reference to a direction given or powers exercised by the President.

(2) In these Rules, unless the context otherwise requires, a reference

(a) to a numbered rule or Schedule is to the rule in or Schedule to these rules bearing that number;

(b) in a rule or Schedule to a numbered paragraph is to the paragraph in that rule or Schedule bearing that number;

(c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter.

Times and places of meetings of the committees

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

PART II

INITIAL CONSIDERATION OF CASES

Appointment of member to conduct initial consideration of cases

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

(a) by a medical screener appointed by the Council under paragraph (2), or

([1]) Scheduled to S.I. 2003/1342.
([2]) Scheduled to S.I. 2003/1341.

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

and referred by such member to the Committee.

(2) The Council shall appoint to act as medical screeners for the purposes of these Rules—

(a) the President, unless he proposes to sit on the Preliminary Proceedings Committee, the Professional Conduct Committee or the Health Committee or for any other reason he does not wish to undertake the initial consideration of cases under these Rules; and

(b) such other medical members of the Council as the President shall nominate.

(3) (Deleted 2000)

(4) (Deleted 2000)

(5) The President shall also nominate lay members of the Council, whom the Council shall appoint, to assist any medical screener.

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

Allegations as to conviction

5.—(1) Where information in writing is received by the Registrar from which it appears to him that a practitioner has been convicted of a criminal offence in the British Islands or has been convicted of an offence elsewhere which, if committed in England or Wales would constitute an offence—

(a) in a case of conviction for an offence which the Registrar considers to be a minor motoring offence, the case shall not proceed further;

(b) in a case of conviction where a custodial sentence has been imposed (but excepting any case where the sentence was suspended), the Registrar may refer the case direct to the Professional Conduct Committee for inquiry unless it is his opinion that such direct referral would not be in the public interest;

(c) in any other case of conviction including any case which the Registrar has determined not to refer direct to the Professional Conduct Committee under rule 5(1)(b), the Registrar shall refer the case to the medical screener.

(1A) In a case where subparagraph (b) of paragraph (1) applies, the Registrar shall notify the practitioner as soon as practicable that the case has been referred to the Professional Conduct Committee.

(2) Unless the case is dealt with under the Health Committee (Procedure) Rules in pursuance of the proviso to rule 7 of these Rules, the medical screener shall refer every case submitted to him under this rule to the Preliminary Proceedings Committee.

(3) Where a case is referred to the Preliminary Proceedings Committee under this rule, the Registrar shall give written notice to the practitioner-

(a) that the information referred to in paragraph (1) has been received;

(b) that the case has been referred to the Preliminary Proceedings Committee and of the date of the meeting of the Committee to which the case is referred,

(c) and shall invite the practitioner to submit any observations which he may wish to offer.

(4) The Registrar shall submit to the Preliminary Proceedings Committee any observations or evidence furnished by the practitioner under this rule or rule 7.

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 a medical screener.

(2) (deleted 2002)

(3) Unless the case is dealt with under the Health Committee (Procedure) Rules in pursuance of the proviso to rule 7 of these Rules, the medical screener shall refer to the Preliminary Proceedings Committee a case submitted to him under paragraph (1), if he is satisfied from the material available in relation to the case that it is properly arguable that the practitioner's conduct constitutes serious professional misconduct.

(3A) The medical screener shall seek the advice of a lay member appointed under rule 4(5) in relation to any case submitted to him under paragraph (1) which he does not propose to refer to the Preliminary Proceedings Committee, and he shall direct that no further action be taken in the case only if the lay member so consulted agrees.

(4) Where the medical screener refers a case to the Preliminary Proceedings Committee under this rule he shall direct the Registrar to give written notice to the practitioner—

(a) notifying him of the receipt of a complaint or information and stating the matters which appear to raise a question as to whether the conduct of the practitioner constitutes serious professional misconduct;

(b) (deleted 2002)

(c) informing the practitioner of the date of the meeting of the Preliminary Proceedings Committee to which the case is referred; and

(d) inviting the practitioner to submit any explanation which he may have to offer.

(5) Where a case is referred to the Preliminary Proceedings Committee under this rule, the medical screener shall submit to the Committee any complaint, information, explanation or other evidence furnished under this rule or rule 7 which relates to the case.

(6) In any case where the medical screener decides not to refer a case to the Preliminary Proceedings Committee, the practitioner and the person from whom the complaint or information was received shall be informed but shall have no right of access to any document relating to the case submitted to the Council by any other person.

"(7) Subject to paragraph (8), an allegation of misconduct in a case relating to conduct may not be referred to the Preliminary Proceedings Committee under this rule if, at the time when the complaint was first made to the Council, more than five years had elapsed since the events giving rise to that allegation.

(8) Where an allegation of misconduct in a case relating to conduct is made more than five years after the events giving rise to that allegation, the medical screener may nevertheless direct that the case be referred to the Preliminary Proceedings Committee if, in his opinion, the public interest requires this in the exceptional circumstances of that case.

Furnishing evidence of fitness to practise

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

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

Invitation to practitioner to appear before the Interim Orders Committee in certain circumstances.

8. If in any case (whether relating to conviction or conduct) it appears to the medical screener that the circumstances are such that the Interim Orders Committee may wish to make an order for interim suspension or for interim conditional registration under section 41A of the Act, he shall refer the case to the Interim Orders Committee.

Duty to supply rules

9. The Registrar shall send a copy of these rules with any notice sent for the purpose of rule 5(3), 6(4) or 8.

10. (Deleted 2000)

PART III

PROCEDURE OF THE PRELIMINARY PROCEEDINGS COMMITTEE

Determination by Preliminary Proceedings Committee

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

(a) that the case shall be referred to the Professional Conduct Committee for inquiry, or

(b) that the case shall be referred to the Health Committee for inquiry, or

(c) that the case shall not be referred to either Committee.

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

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

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

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

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

(6) The Committee shall not consider any case relating to the conduct of a practitioner and referred to the Committee under rule 6 before the expiry of the period of 28 days beginning with the date of despatch of the notice given to the practitioner under rule 6(4) unless the practitioner consents.

Referral to Interim Orders Committee

12. If in any case it appears to the Committee that the circumstances are such that the Interim Orders Committee may wish to make an interim suspension order or an order for interim conditional registration under section 41A(1) of the Act, the Committee shall refer the case to the Interim Orders Committee.

Further investigations and provisional determination

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

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

(a) the Chairman of the Committee may subsequently direct either that no reference shall be made or that the Committee's determination shall become absolute;

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

Fresh allegation as to conviction or conduct

14.—(1) This rule applies where:

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

(b) in any case relating to conduct

(i) under rule 6(3) the medical screener decides that no reference to the Committee is to be made; or

(ii) the Committee determine that no reference for inquiry shall be made,

and the Registrar, at any time within the two years following that determination or decision, receives information that the practitioner has been convicted in the British Isles of a criminal offence or has been convicted of an offence elsewhere which, if committed in England or Wales, would constitute an offence or receives information or a complaint as to the practitioner's conduct.

(2) Where this rule applies, the medical screener may direct that the original conviction or complaint be referred, or referred again, to the Committee, as well as the later conviction, information or complaint.

(3) In any case where the decision under paragraph (1)(b)(i) was made before 3rd August 2000, the reference there to the medical screener shall be read as a reference to the President.

Preliminary Proceedings Committee to meet in private

15. The Committee shall meet in private.

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

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

PART IV

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

Notice of Inquiry

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

(a) specify, in the form of a charge or charges, the matters into which the inquiry is to be held, and

(b) state the day, time and place at which the inquiry is proposed to be held.

(2) In a case relating to conduct, the charge shall include a statement which identifies the alleged facts upon which the charge is based.

(3) Except with the agreement of the practitioner, the inquiry

(a) shall not be fixed for any date earlier than twenty-eight days after the date of posting of the Notice of inquiry;

(b) shall not be fixed for any date earlier than six weeks after the date of the meeting of the Preliminary Proceedings Committee at which the case was referred for inquiry.

(4) A Notice of Inquiry shall be in the form set out in Schedule 2, with such variations as circumstances may require.

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

Postponement of inquiry

18.—(1) Where the Preliminary Proceedings Committee has referred a complaint or information or a conviction to the Committee for inquiry, the Chairman of the Preliminary Proceedings Committee may if he thinks fit postpone the holding of the inquiry to such later date or meeting of the Committee as he may determine.

(2)Where the Registrar has referred a conviction to the Committee for inquiry, he may if he thinks fit postpone the holding of the inquiry to such later date or meeting of the Committee as he may determine.

(3)The Registrar shall, as soon as may be after any decision to postpone an inquiry, give to all parties to whom a Notice of Inquiry has been sent notification of the decision, 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 the Preliminary Proceedings Committee has referred a complaint or information or a conviction to the Committee for inquiry, it appears to the Chairman of the Preliminary Proceedings Committee (having taken into account any observations of any complainant obtained pursuant to paragraph (1A)) that the inquiry should not be held, he may, after consulting a quorum of the Committee, and if they agree, direct that the inquiry shall not be held; and if at the time the direction is given no Notice of inquiry has been sent, rule 17 shall not have effect:

(1A) In any case where there is a complainant the Registrar shall, before the Preliminary Proceedings Committee considers the case under paragraph (1), communicate or endeavour to communicate with the complainant with a view to obtaining the observations of the complainant as to whether the inquiry should be held.

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

(3) Where, after the Registrar has referred a conviction to the Committee for inquiry, it appears to him that the inquiry should not be held, he may direct that the inquiry shall not be

held; and if at the time the direction is given no Notice of Inquiry has been sent, rule 17 shall not have effect.

(4)The Registrar shall, as soon as may be after any decision to cancel an inquiry, give notice thereof to the practitioner and to the complainant (if any).

Delegation to Deputy Chairmen

19A Anything authorised by these Rules to be done by the Chairman of the Preliminary Proceedings Committee may, if he is unavailable or otherwise unable to act, be done by a Deputy Chairman of the Committee.

Access to documents

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

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

Notice to produce documents

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

Amendment of charge before the opening of an inquiry

22.—(1) Where before a hearing by the Committee it appears to the Chairman of the Preliminary Proceedings Committee (the Chairman) that a charge should be amended, including such amendment as contemplated under the proviso to rule 11(2), the Chairman 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 Chairman it is expedient, in consequence of the exercise by him of the powers conferred by paragraph (1), that the inquiry should be postponed, the Chairman shall give such directions in that behalf as appears necessary.

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

Referral to Interim Orders Committee by Professional Conduct Committee

22A. If in any case (whether relating to conviction or conduct) it appears to the Professional Conduct Committee that the circumstances are such that the Interim Orders Committee may wish to make an interim suspension order or an order for interim conditional registration under section 41A(1) of the Act the Professional Conduct Committee shall refer the case to the Interim Orders Committee.

PART V

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

Procedure where the practitioner does not appear

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

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

rule 24(2) and (3);
rule 25(1)(c), (d), (e), (f) and (g);
rule 26(2);
rule 27(1)(a), (e), (f), (g), (h), (i) and (j); and
rule 28(2).

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

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

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

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

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

Cases relating to conviction

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

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

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

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

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

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

(f) The Solicitor may then address the Committee.

(g) The practitioner may then address the Committee.

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

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

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

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

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

Cases relating to conduct

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

(a) The Chairman shall ask the practitioner whether he admits any or all of the facts alleged in the charge or charges and, in respect of any facts so admitted by the practitioner, the Committee shall record a finding that such facts have been proved and the Chairman shall so announce. Where all the facts are admitted the remainder of this rule other than sub- paragraphs (e) and (f) of this paragraph, shall not apply.

(b) Where none, or some only, of the facts are admitted the Solicitor, or the complainant if any, shall open the case against the practitioner and present the facts alleged on which the charge or charges is or are based.

(c) The Solicitor, or the complainant, as the case may be, may adduce evidence of the facts alleged which have not been admitted by the practitioner.

(d) If as respects any charge no evidence is so adduced, the Committee shall record and the Chairman shall announce a finding that the practitioner is not guilty of serious professional misconduct in respect of the matter to which that charge relates.

(e) At the close of the case against him the practitioner may make either or both of the following submissions, namely:—

(i) in respect of any or all of the facts alleged and not admitted in the charge or charges, that no sufficient evidence has been adduced upon which the Committee could find those facts proved;

(ii) in respect of any charge, that the facts of which evidence has been adduced or which have been admitted are insufficient to support a finding of serious professional misconduct;

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

(f) If a submission is made under the last foregoing paragraph, the Committee shall consider and determine whether the submission should be upheld; and if the Committee determine to uphold such a submission as respects any charge, they shall record, and the Chairman shall announce, a finding that the practitioner is not guilty of serious professional misconduct in respect of the matters to which the charge relates.

(g) The practitioner may then address the Committee concerning any charge which remains outstanding and may adduce evidence, oral or documentary, including his own, in his defence.

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

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

(j) The practitioner may then address the Committee.

(2) On the conclusion of proceedings under paragraph (1) the Committee shall consider and determine:

(i) which, if any, of the remaining facts alleged in the charge and not admitted by the practitioner have been proved to their satisfaction, and

(ii) whether such facts as have been so found proved or admitted would be insufficient to support a finding of serious professional misconduct, and shall record their finding.

(3) The Chairman shall announce that finding and, if as respects any charge the Committee have found that none of the facts alleged in the charge have been proved to their satisfaction, or that such facts as have been so proved would be insufficient to support a finding of serious professional misconduct, the Committee shall record and the Chairman shall announce a finding that the practitioner is not guilty of serious professional misconduct in respect of the matters to which that charge relates.

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

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

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

Finding of serious professional misconduct

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

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

Determination whether to make a direction

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

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

Directions of the Committee

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

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

(b) If the Committee so determine they shall then consider and decide the nature and duration of the conditions to be imposed, and shall so direct.

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

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

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

Order for immediate suspension of registration

32. If in any case the Committee determine to suspend the registration of a practitioner or to erase his name from the Register, the Committee shall then also consider and determine

whether it is necessary for the protection of members of the public or would be in the best interests of the practitioner to order that his registration shall be suspended forthwith.

Failure to comply with interim conditional registration

33.—(1) Where, in any case referred by the Preliminary Proceedings Committee, the Interim Orders Committee has made an order for interim conditional registration or, if at a previous hearing the Professional Conduct Committee had made such an order, the Professional Conduct Committee shall first determine whether the practitioner has failed to comply with any of the requirements imposed on him as conditions of his registration.

(2) If the Committee determine that the practitioner has not so failed to comply, they shall proceed in accordance with rule 33A.

(3) If the Committee determine that the practitioner has so failed to comply they may, if they think fit—

(a) exercise their powers under rule 33A; or, if not,

(b) direct that the registration of the practitioner shall be suspended for such period not exceeding 12 months as they may specify; or, if not,

(c) direct that the name of the practitioner shall be erased from the Register.

Orders for interim suspension or interim conditional registration

33A.—(1) Where, in any case referred by the Preliminary Proceedings Committee, an order made by the Interim Orders Committee for interim suspension or for interim conditional registration is in force, (or where an order made under this paragraph by the Professional Conduct Committee is in force), the Professional Conduct Committee may—

(a) revoke the order;

(b) revoke or vary any condition imposed by the order;

(c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the practitioner, make an order that the practitioner's registration shall be conditional on his compliance, during such period 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 otherwise in the public interest or in his interests; or

(d) if satisfied that to do so is necessary for the protection of members of the public, or is otherwise in the public interest or is in the interests of the practitioner make an order that the practitioner's registration shall be suspended for such period as they may specify in the order.

(2) When considering whether to make an order under this rule the Committee may invite the Solicitor to address them.

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

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

(4) Any order made under paragraph (1)(c) or (d) shall specify a period not exceeding three months.

(5) Any order made under paragraph (1) shall be notified to the practitioner by the Registrar forthwith and in accordance with the requirements of rule 54.

Announcement of findings, direction, etc. of Committee

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

Cases relating both to conviction and to conduct

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

(a) The Committee shall first proceed with every charge that the practitioner has been convicted until they have completed the proceedings required by rule 25.

(b) The Committee shall then proceed with every charge that the practitioner has been guilty of such conduct as aforesaid until they have completed the proceedings required by rule 27.

(c) The Committee shall then take any proceedings required by any of rules 26 and 28 to 33.

Inquiries into charges against two or more practitioners

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

Committee as to the order in which proceedings shall be taken under any of those rules in relation to the several practitioners.

PART VI

RESUMED HEARINGS BY THE PROFESSIONAL CONDUCT COMMITTEE

Direction for resumed hearing

37.—(1) Paragraph (1A) applies where the Committee—

(a) have determined that the registration of a practitioner shall be suspended or be subject to conditions for a specified period, but

(b) have given no intimation under rule 31(5).

(1A) If it appears to the Chairman of the Preliminary Proceedings Committee ("the Chairman"), as a consequence of the receipt during that specified period of information as to the conduct or a conviction of the practitioner since the date of the direction to give effect to the determination, that the Professional Conduct Committee should consider whether or not—

(a) the period of suspension or conditional registration should be extended; or

(b) the conditions should be varied or revoked; or

(c) the name of the practitioner should be erased from the Register

he shall direct the Registrar to notify the practitioner that the Professional Conduct Committee will resume consideration of the case at such meeting as the Chairman shall specify.

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

(a) decided to postpone their determination under rule 30 for a specified period or to a specified meeting, or

(b) directed that the practitioner's registration should be subject to conditions and intimated that they will resume consideration of the case at a specified meeting or date, or

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

and it subsequently appears to the Chairman, in consequence of the receipt of information to the credit or discredit of the practitioner in relation to his conduct since the original hearing, or for some other reason, that the Committee should resume consideration of the case at an earlier meeting or date than that originally specified, the Chairman may direct the Registrar to

notify the practitioner that the Committee will resume consideration of the case at such meeting or date as the Chairman shall specify.

(3) Without prejudice to the generality of paragraphs (1), (1A) and (2), wherein any case the Committee have imposed conditions upon a practitioner's registration, and it appears to the Chairman 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 Chairman may direct the Registrar to notify the practitioner that the Committee will resume consideration of the case at such meeting as the Chairman shall specify.

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

Notice of resumed hearing

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

(a) the Registrar shall, not later than four weeks before the day fixed for the resumption of the proceedings, send to the practitioner in compliance with rule 54 a Notice which shall—

(i) specify the day, time and place at which the proceedings are to be resumed and invite him to appear thereat;

(ii) in any case where the Chairman of the Preliminary Proceedings Committee has exercised his powers under rule 37(1) to (3) state the nature of the information in consequence of which he has exercised his powers;

(iii) if the Committee have so directed, invite the practitioner to furnish the Registrar with the names and addresses of professional colleagues and other persons of standing to whom the Council will be able to apply for confidential information as to their knowledge of his conduct since the time of the original inquiry;

(b) in any case where there is a complainant a copy of the Notice shall be sent to him.

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

(i) where under any of the foregoing provisions of these Rules the determination of the Committee in any case stands postponed; or

(ii) where the Committee have directed that the registration of a practitioner shall be conditional or shall be suspended, and have intimated that before the end of the

period of conditional registration or suspension they will resume consideration of the case; or

(iii) where the Chairman of the Preliminary Proceedings Committee has so directed under rule 37(1) to (3); or

(iv) where, following reference of a case to the Health Committee, the Health Committee certify to the Committee under rule 51(3), their opinion that the fitness to practise of the practitioner is not seriously impaired by reason of his condition.

New charge at resumed hearing

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

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

Procedure at resumed hearing

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

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

(3) The Committee may—

(a) hear any other party to the proceedings,

(b) receive such further oral or documentary evidence in relation to the case, or as to the conduct of the practitioner since the previous hearing, as they think fit; and nothing herein contained shall be construed as preventing the receipt by the Committee of evidence as to any conviction, not being a conviction which is the subject of a charge before the Committee.

(4) The Committee shall then proceed in accordance with the following rules, as the circumstances of the case may so require.

Procedure following postponement under rule 30

41.—(1) If at the previous hearing the Committee, under rule 30, postponed their determination whether to make a direction to enable further evidence to be considered, they

shall next consider and decide whether they should further postpone their determination: if they so decide, they may direct such further postponement until such future date or meeting of the Committee as they may specify.

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

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

Procedure where conditional registration had been imposed

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

(2) (a) If the Committee judge that the practitioner has not so failed to comply they shall then consider and determine whether:

(i) to revoke the direction made at the previous hearing, that the registration of the practitioner be subject to conditions (in which case they shall so direct); or

(ii) to vary the conditions imposed under the direction made at the previous hearing (in which case they shall so direct); or

(iii) to make no further direction, and allow the case to conclude on the expiry of the period for which the direction made at the previous hearing applies.

(b) If the Committee determine not to revoke the direction or vary the condition or conditions imposed at the previous hearing, or to allow the case to conclude as aforesaid, they shall proceed to impose a further period of conditional registration and shall consider and decide the nature of the conditions and the further period not exceeding twelve months, for which they shall apply, and shall so direct.

(3) (a) If the Committee judge that the practitioner has so failed to comply, they shall next consider and determine whether it shall be sufficient:

(i) to vary the conditions imposed under the direction made at the previous hearing; or, if not,

(ii) to direct that the current period of conditional registration shall be extended for such further period not exceeding twelve months as they may specify, with or without variation of the conditions imposed under the direction made at the previous hearing; or, if not,

(iii) to direct that the registration of the practitioner shall be suspended for such period not exceeding twelve months as they may specify and, if they determine that one of the foregoing courses of action shall be sufficient, they shall so direct.

(b) If the Committee determine that none of the courses of action under sub-paragraph (a) shall be sufficient, they shall thereupon direct that the name of the practitioner shall be erased from the Register.

Procedure where registration has been suspended

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

(a) to make no further direction, or, if not,

(b) to direct the registration of the practitioner shall be conditional on his compliance during such period not exceeding three years as the Committee may specify, with such requirements as the Committee may think fit to impose for the protection of members of the public or in his interests (in which case the Committee shall then consider and decide the nature and duration of the conditions to be imposed); or, if not,

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

(2) If the Committee determine that it shall not be sufficient to adopt a course under paragraph (1)(a), (b) or (c) they shall direct that the name of the practitioner shall be erased from the Register.

(3) If the Committee determine to pursue a course under paragraph (1)(b), or (c) or paragraph (2) they shall make a direction to that effect.

Announcement of determination at resumed hearing

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

Subsequent application of rules where case is continued

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

PART VII

APPLICATIONS FOR RESTORATION AFTER ERASURE UNDER SECTION 36

Procedure for consideration of applications for restoration

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

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

(b) At the hearing of the application, the Chairman of the Committee 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 the date the Committee directed that the practitioner's name should be erased from the Register.

(c) (deleted 2000)

(d) The Committee may, if they think fit, receive oral or written observations on the application from any body or person on whose complaint or information the applicant's name was erased from the Register.

(da) The Chairman shall next invite the applicant to address the Committee and, if he so desires, to adduce evidence as to his good character, his professional competence and his health since the date the Committee directed his name should be erased from the Register, and if any observations are received under sub-paragraph (d), the applicant shall have the right to address the Committee in response to those observations.

(db) Where an application is a second or subsequent application during the same period of erasure the Chairman shall invite the applicant to address the Committee on the question of whether his right to make further applications should be suspended indefinitely.

(e) The Committee may, if they think fit, adjourn consideration of any application to such future meeting as they may specify, and may require the applicant to submit evidence of his conduct since his name was erased from the Register.

(f) Subject to the foregoing provisions of this rule the procedure of the Committee in connection with such applications shall be such as they may determine.

(2) There shall be three stages in the Committee's determination of an application for restoration to the Register.

(3) At the first stage, the Committee shall determine, having regard to—

(a) the reasons why the applicant's name was erased from the Register;

(b) the application for restoration;

(c) the applicant's conduct since his name was erased from the Register; and

(d) the representations made to the Committee under paragraph (1)

whether, subject to satisfying the Committee as to his good character, professional competence and health, the applicant's name should be restored to the Register.

(4) If the Committee determine under paragraph (3) that the applicant's name should not be restored to the Register the Committee shall determine the application accordingly but, if not, the case shall proceed to the second stage.

(5) At the second stage, the Committee shall determine what assessment the applicant should undergo for the purpose of satisfying the Committee as to his good character, professional competence and health and shall order accordingly.

(6) The person who carries out the assessment of the applicant's character, professional competence and health shall report his findings in writing to the Committee.

(7) At the third stage, the Committee shall consider the report of the assessment of the applicant's fitness to practise and determine whether the applicant's name should be restored to the Register.

PART VIIA

APPLICATIONS FOR RESTORATION IN ACCORDANCE WITH THE VOLUNTARY ERASURE REGULATIONS OR THE RESTORATION REGULATIONS

Procedure for consideration of applications for restoration

46A. —(1) This Part shall apply in relation to any application by a person for restoration of his name to the Register-

(a) under regulation 3 of the Voluntary Erasure Regulations which has been referred to the Committee by the Registrar under regulation 4(8) of those regulations; or

(b) under regulation 2 of the Restoration Regulations, which has been referred to the Committee by the Registrar under regulation 3(8) of those regulations.

(2) The application shall not be considered by the Committee at any meeting unless the Registrar has given the applicant notice in writing of the date, time and place of the hearing

before the beginning of the period of 28 days ending on the day of the hearing, or such shorter period of notice as the applicant may agree, and the Registrar shall send with the notice a copy of these Rules and the Voluntary Erasure Regulations or the Restoration Regulations whichever is applicable.

(3) The notice under paragraph (2) shall—

(a) specify the grounds on which the reference has been made and include particulars of any alleged facts which are to be presented to the Committee at the hearing by the Solicitor;

(b) have attached to it copies of any reports or other documents which the Solicitor proposes to put before the Committee at the hearing;

(c) inform the applicant of his right to attend the hearing and to be represented by counsel or a solicitor, by any officer or member of any professional organisation of which he is a member or by a member of his family,

and, except where the context otherwise requires, any reference in the following provisions of this Part to the applicant shall be read as including a reference to his representative.

(4) The following provisions shall apply in relation to any meeting of the Committee to consider the application—

(a) the Chairman shall put the particulars specified in the notice in accordance with paragraph (3)(a) to the applicant and ask him whether he admits all or any of the facts alleged;

(b) any admission of any fact or facts shall be recorded by the Committee and announced by the Chairman;

(c) the Solicitor may adduce oral or documentary evidence to prove any fact specified in the particulars which is not admitted and shall in any event, where applicable, call the complainant;

(d) the applicant may adduce oral or documentary evidence relevant to any fact in respect of which the Solicitor has adduced evidence and may address the Committee on any such evidence;

(e) the Committee shall make a determination that any fact which has not been admitted, and as respects which evidence has not been adduced by the Solicitor, has not been proved, and that determination shall be announced by the Chairman;

(f) the Committee shall determine whether they find any fact as respects which the Solicitor has adduced evidence proved or not;

(g) the Solicitor may address the Committee with respect to any admission and to any fact found by the Committee to have been proved, and with respect to the character and previous history of the applicant;

(h) the applicant may address the Committee with respect to any admission and any fact found by the Committee to have been proved, and with respect to any other matter raised by the Solicitor in his address;

(i) the Committee shall consider any admissions made, any evidence adduced and the addresses of the Solicitor and the applicant, and decide whether to approve the application;

(j) if the Committee decide to approve the application, they shall direct the Registrar to restore the applicant's name forthwith to the Register;

(k) if the Committee decide not to approve the application they shall consider whether, having regard to the gravity of the case, the mandatory period of one year during which the applicant is not permitted to make another application for restoration under regulation 4(11) of the Voluntary Erasure Regulations or regulation 3(11) of the Restoration Regulations, whichever is applicable, should be extended and, if so, what the extended period should be; and

(l) the Chairman shall announce the Committee's decision under sub-paragraph (i), and under sub-paragraph (k) if applicable, in such terms as the Committee shall approve.

(5) A majority of the votes of those present shall be required for a decision that the applicant's name should be so restored and for a decision that the minimum period referred to in paragraph (4)(k) should be extended, and rule 52(3) shall have effect subject to this paragraph.

(6) Parts II, III, IV, V, VI and VII of these Rules shall not apply in relation to any application to which this Part applies, except that rule 23(1) shall apply.

(7) Part VIII of these Rules shall apply, except that rules 49, 51 and 53A shall not apply.

(8) Subject to paragraphs (2) to (7), the Committee may determine their own procedure.

(9) For the purpose of proceedings under this rule, references to the complainant in these Rules shall mean any person whose written complaint or information about the applicant's conduct has given rise to the matters that are being considered by the Committee.

46B Procedure for consideration of restoration following voluntary erasure applications made before 1st July 2003

An application for restoration which has been referred to the Committee by virtue of regulation 6(b) of the Voluntary Erasure Regulations in accordance with the Medical Practitioners (Voluntary Erasure and Restoration) Regulations 2000 shall be dealt with in accordance with rule 46A above as in force on 30th June 2003.

PART VIII

GENERAL

Adjournment of proceedings

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

Exclusion of public from hearings in certain cases

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

(2) (a) If any party to any proceedings or any witness therein makes an application to the Committee for the public to be excluded from any proceedings or part thereof, then if it appears to the Committee that any person would suffer undue prejudice from a public hearing or that for any other reason the circumstances and nature of the case make a public hearing unnecessary or undesirable, the Committee may direct that the public shall be so excluded.

(b) Where no such application has been made the Committee may of their own initiative direct that the public shall be excluded from any proceedings or part thereof if it appears to the Committee, after hearing the views of the parties thereon, that to do so would be in the interests of justice or desirable having regard to the nature either of the case or of the evidence to be given.

(c) A direction under this paragraph shall not apply to the announcement in pursuance of any of these rules of a determination of the Committee.

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

Consideration of confidential reports at resumed hearings

49.—(1) Where, under rule 30 or rule 41, the Professional Conduct Committee postpone or further postpone their determination whether to make a direction or, under rule 31, rule 42 or rule 43, impose conditions upon a practitioner's registration or suspend the registration of a practitioner and give an intimation under rule 31(5), or the Chairman of the Preliminary Proceedings Committee determines under rule 37(1) to (3) that they will resume consideration of the case, or where the Committee adjourn consideration of an application under rule 46(1)(e), the Committee may require the practitioner to furnish the Registrar with the names and addresses of professional colleagues and other persons of standing to whom the Council will be able to apply for information, to be given confidentially, as to their knowledge of his conduct since the time of the original or of any previous hearing.

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

Evidence

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

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

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

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

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

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

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

Reference and transfer of cases to the Health Committee

51.—(1) Notwithstanding any other provisions in these rules, where in the course of an inquiry, at either the original or a resumed hearing, it appears to the Professional Conduct Committee that a practitioner's fitness to practise may be seriously impaired by reason of his

physical or mental condition, the Committee may refer that question to the Health Committee for determination, and any such referral may be made whether or not the Professional Conduct Committee order in accordance with powers conferred by the Act that the practitioner's registration shall be conditional on his compliance with specified requirements.

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

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

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

Voting

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

(a) The Chairman of the Committee shall call upon the members present to signify their votes by raising their hands, signify his own vote, and declare the way in which the question appears to him to have been determined.

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

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

(ii) announce his own vote, and

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

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

(3) In proceedings of the Professional Conduct Committee,

(a) the Committee shall dismiss an application under rule 46 unless a majority of the votes of those present at the hearing are in favour of allowing the application;

(b) the Committee shall dismiss a submission under rule 27(1)(e) unless a majority of the votes of those present at the hearing are in favour of allowing the submission; and

(c) in any other case if the votes are equal the question shall be deemed to have been resolved in favour of the practitioner.

For the purpose of this paragraph a determination by the Professional Conduct Committee to postpone their determination whether to make a direction shall be taken to be in favour of a practitioner unless he has indicated to the Committee that he is opposed to such postponement.

The amendments made by this paragraph shall not apply in relation to any proceedings before the Professional Conduct Committee which were begun before 3rd August 2000.

Representation

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

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

Notification of directions of the Professional Conduct Committee

53A.—(1) In any case in which the Professional Conduct Committee have given a direction under these Rules for erasure, for suspension or for conditional registration or have varied the conditions imposed by a direction for conditional registration, the Registrar shall forthwith serve on the practitioner a notification of the direction and of the practitioner's right to appeal against the decision.

(2) In this rule references to a direction for suspension and a direction for conditional registration include references to a direction extending a period of suspension or a period of conditional registration.

(3) Service of the notification shall be effected in accordance with rule 54.

Postal service of documents

54. Any notice or other document required by rules 5 to 8, 12(7), 17, 18(2), 19(3) 33(3), and (4), 37, 38 and Part VIIA to be given or sent to any person shall be given or sent—

(a) by personal delivery, or by sending it to him by the Registered post service or by a postal service in which delivery or receipt is recorded at his usual or last-known address, which in the case of a doctor shall be his address in the Register or, if his last-known address differs from the address in the Register, his last-known address;

(b) in the case of a person represented by—

(i) a solicitor, by personal delivery, or by sending it to him by the Registered post service or by a postal service in which delivery or receipt is recorded at his professional address;

(ii) any other person, by personal delivery, or by sending it to him by the Registered post service or by a postal service in which delivery or receipt is recorded at his usual or last-known address.

Record of proceedings

55.—(1) The Registrar shall arrange for the proceedings of the Professional Conduct Committee to be recorded by electronic means or otherwise.

(2) Any party to the proceedings shall, on application to the Registrar, be furnished with a copy of the record of any part of the proceedings at which the party was entitled to be present.

(3) Paragraphs (1) and (2) do not apply to the deliberations of the Committee.

Revocation

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

Given under the official seal of the General Medical Council this third day of November nineteen hundred and eighty-eight.

Code A

President

SCHEDULE 1

(Rule 3)

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

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

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

3. (deleted 1994)

. 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. Except in the case of a meeting held to resume the hearing of a case which has been adjourned or postponed for less than 28 days, such notice shall be sent not less than three weeks before the meeting to which it relates.

5. (deleted 2000)

SCHEDULE 2

(Rule 17)

FORM OF NOTICE OF 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 Act, 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 ..... am/pm 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 you registration therein, or to impose conditions on your registration, pursuant to section 36 of the Medical Act 1983.

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 professional 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 Solicitor 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 1988.

AND

(If the Notice is addressed to a practitioner whose registration is subject to an interim order made by the Preliminary Proceedings Committee under rule 12 of these Rules and currently in force). The Committee may revoke the interim order made in relation to your registration on [specify date] by the Preliminary Proceedings Committee under rule 12 of these Rules, or may exercise such other powers with respect to that order as are set out in rule 33 of these Rules.

Yours faithfully,

Solicitor to the General Medical Council

SCHEDULE 3

(Rule 46)

STATUTORY DECLARATION TO BE MADE BY AN APPLICANT FOR RESTORATION TO THE REGISTER

(NB 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 .....

now holding the qualification 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 qualifications 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 .....

Rules 2, 3(1)(b), 7(3), 7(4), 7(6), 10(1), 10(5)(b), 11(7)(d), 13(e), 17(4)(b), 17(8), 19(b), 23(1)(b), 24(2)(g)

SCHEDULE 2-HEALTH ASSESSMENTS

1. In this Schedule "assessment" means an assessment of the physical or mental condition of the practitioner.

2. The Registrar shall invite the practitioner within 14 days to agree to attend before two medical examiners selected by the Registrar from the panel appointed under rule 3 for the purposes of assessing the practitioner's physical or mental condition.

3. If the practitioner accepts the invitation under paragraph (2) within 14 days from the date of such invitation (or such further period as the Registrar may allow) the Registrar shall make arrangements for the assessments to be carried out.

4. The medical examiners shall each be required to prepare a report on the practitioner's physical or mental condition which shall express —

   (a) an opinion as to whether the practitioner is fit to practise either generally or on limited basis; and

   (b) any recommendations as to the management of the case.

Draft Order in Council laid before Parliament under section 62(9) of the Health Act 1999, for approval by resolution of each House of Parliament.

STATUTORY INSTRUMENTS

2002 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

DOCTORS

The Medical Act 1983 (Amendment) Order 2002

Made - - - - 17 December 2002

Coming into force in accordance with article 1(2) and (3)

At the Court at Buckingham Palace, the ** day of ** 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State published a draft Order and invited representations as required by paragraph 9(1) of Schedule 3 to the Health Act 1999(a) and the period of three months mentioned in paragraph 9(2) of that Schedule expired before a draft of this Order in Council was laid before Parliament.

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament in accordance with section 62(9) of that Act.

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 60 and 62(4) of the Health Act 1999 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I

GENERAL

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Medical Act 1983 (Amendment) Order 2002.

(2) This article and—

(a) article 2 in so far as it relates to the provisions commenced by sub-paragraphs (b) to (h) and (k) below;

(b) article 3;

(a) 1999 c. 8.

(c) article 4, except in so far as it relates to the new paragraphs 1(3), 2(4)(c), 2(5)(b), 3(2)(b) and 4A of Schedule 1 to the Act;

(d) article 6(2) to (10), and article 6(1) in so far as it relates to those provisions;

(e) article 7(2)(a)(i) and (ii) and (2)(b), and article 7(1) in so far it relates to those provisions;

(f) article 9(2), (3), (4)(a) to (c) and (5)(c);

(g) article 10, in so far as it relates to section 29G(1)(a), (2) and (3);

(h) article 15(1), (6)(a) and (b), (6)(c) in so far as it provides for the definition of "exempt person", "professional performance" and "revalidation", and (7);

(i) article 16(3) to (5);

(j) paragraph 11 of Schedule 1, and article 16(1) in so far as it relates to that paragraph; and

(k) paragraphs 2, 3, 4(1) to (3), 34 and 35 of Schedule 2, and article 16(2) and paragraph 1 of that Schedule in so far as they relate to those paragraphs,

come into force forthwith upon the making of this Order; and the other provisions of this Order shall come into force on such days as the Secretary of State may specify.

(3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

(4) Subject to paragraph (5), this Order shall extend to England and Wales, Scotland and Northern Ireland.

(5) The extent of any amendment of any enactment or instrument in Schedule 1 is the same as that of the enactment or instrument amended.

(6) In this Order, "the Act" means the Medical Act 1983(a).

Amendment of the Act

2. The Act shall be amended in accordance with articles 3 to 15 of this Order.

as provisions come into force.

PART II

THE GENERAL MEDICAL COUNCIL

Main objective of the General Council

3. In section 1 (the General Medical Council) after subsection (1) insert—

"(1A) The main objective of the General Council in exercising their functions is to protect, promote and maintain the health and safety of the public.".

Amendments of Schedule 1

4.—(1) Schedule 1 (the General Medical Council and its committees, and the branch councils) is amended as follows.

7|3 (2) In paragraph 1 after sub-paragraph (2) insert—

"(3) The General Council shall consist of no more than 35 members."

(3) In paragraph 2—

(a) after sub-paragraph (1) insert—

(a) 1983 c. 54, as amended by the Medical (Professional Performance) Act 1995 (c. 51), the National Health Service (Primary Care) Act 1997 (c. 46) and the National Health Service Reform and Health Care Professions Act 2002 (c. 17); and S.I. 1986/23, 1996/1591, 2000/1803 and 2000/3041.

"(1A) The provision that may be made by an electoral scheme includes provision for any of the constituencies listed in sub-paragraph (1)(a) to (d) above to be divided into two or more separate constituencies.";

(b) for sub-paragraph (4) substitute—

"(4) The persons qualified to elect the elected members for any constituency shall be those who, on a date determined in accordance with the electoral scheme—

(a) are resident in the constituency for which the election is held;

(b) are fully registered, provisionally registered or registered with limited registration; and

(c) are holders of licences to practise."; and

(c) for sub-paragraph (5) substitute—

"(5) A person shall not be qualified to be elected as an elected member unless he —

(a) is fully registered, provisionally registered or registered with limited registration; and

(b) holds a licence to practise.

(5A) An electoral scheme shall make provision for the disclosure to those qualified to vote at an election of information (including information concerning fitness to practise) relating to a person seeking election.".

(4) In paragraph 3 for sub-paragraphs (1) and (2) substitute—

"(1) Appointed members shall be chosen by such bodies as are designated for the time being as appointing bodies by an Order in Council under section 1 of this Act.

(2) A person shall not be qualified to be chosen as an appointed member unless he —

(a) is fully registered, provisionally registered or registered with limited registration; and

(b) holds a licence to practise.".

(5) In paragraph 4 for sub-paragraph (3) substitute—

"(3) A nominated member shall be a person who is neither fully registered nor a holder of any qualification registrable under this Act.".

(6) After paragraph 4 insert—

"Suspension or removal from office of members

4A.—(1) The General Council shall by rules make provision for the suspension or removal from office of a member by the General Council in such circumstances as may be specified in the rules.

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(2) Rules under sub-paragraph (1) above shall provide for an elected member or an appointed member to be removed from office if he ceases—

(a) to be registered; or

(b) to hold a licence to practise.

(3) Standing orders of the General Council shall make provision for the procedure by which a member may be suspended or removed from office.

(4) No rules under sub-paragraph (1) above shall come into force until approved by order of the Privy Council.

Registration of members' private interests

4B.— (1) The General Council must establish and maintain a system for the declaration and registration of private interests of members of the Council.

(2) The General Council must publish entries recorded in the register of members' private interests.".

(7) For paragraph 7 substitute—

"7.—(1) Notwithstanding paragraph 1(2) above, an Order in Council under section 1 of this Act—

(a) may make provision permitting elections to fill casual vacancies among the elected members to be held together, but

(b) may not permit a casual vacancy among the elected members to be left unfilled for a period exceeding six months, except in accordance with paragraph (c) below, and

(c) may make provision that a casual vacancy among the elected members need not be filled if the unexpired term of the elected member giving rise to the vacancy is less than twelve months.

(2) In sub-paragraph (1) above the "unexpired term" means the period beginning with the date on which the member ceased to be a member and ending with the date on which his full term of office would have expired.".

(8) For paragraph 13 substitute—

"**13.** The quorum of the General Council shall be prescribed by Her Majesty by Order in Council made under section 1 of this Act.".

PART III

COMMITTEES OF THE COUNCIL

Committees

5.—(1) The Interim Orders Committee, the Preliminary Proceedings Committee, the Professional Conduct Committee, the Assessment Referral Committee, the Committee on Professional Performance and the Health Committee are abolished.

(2) In section 1 (the General Medical Council) for subsection (3) substitute—

"(3) The General Council shall have the following committees—

(a) the Education Committee,

(b) one or more Interim Orders Panels,

(c) one or more Registration Decisions Panels,

(d) one or more Registration Appeals Panels,

(e) the Investigation Committee,

(f) one or more Fitness to Practise Panels,

constituted in accordance with Part III of Schedule 1 to this Act and having the functions assigned to them by or under this Act.

(3A) The committees of the General Council specified in paragraphs (a) to (f) of subsection (3) above are referred to in this Act as "the statutory committees".".

17/3 (3) For paragraphs 19 to 24 of Schedule 1 substitute—

"*Education Committee*

19. Subject to the power of the Committee under paragraph 25 below to co-opt members, the composition of the Education Committee shall be such as the General Council think fit.

Interim Orders Panels

19A. Subject to the restrictions on membership specified in paragraph 23 below and to the power of the Panel under paragraph 25 below to co-opt members, an Interim Orders Panel shall be constituted as provided by rules made under this paragraph by the General Council.

Registration Decisions Panels

19B. Subject to the power of the Panel under paragraph 25 below to co-opt members, a Registration Decisions Panel shall be constituted as provided by rules made under this paragraph by the General Council.

Registration Appeals Panels

19C. Subject to the restrictions on membership specified in paragraph 23 below and to the power of the Panel under paragraph 25 below to co-opt members, a Registration Appeals Panel shall be constituted as provided by rules made under this paragraph by the General Council.

Investigation Committee

19D. Subject to the power of the Committee under paragraph 25 below to co-opt members, the Investigation Committee shall be constituted as provided by rules made under this paragraph by the General Council.

Fitness to Practise Panels

19E. Subject to the restrictions on membership specified in paragraph 23 below and to the power of the Panel under paragraph 25 below to co-opt members, a Fitness to Practise Panel shall be constituted as provided by rules made under this paragraph by the General Council.

Supplementary

23. Rules under paragraphs 19A, 19C and 19E above shall secure that—

(a) only persons who are not members of the General Council shall be members of an Interim Orders Panel, a Registration Appeals Panel or a Fitness to Practise Panel;

(b) a person who sits as a member of an Interim Orders Panel or Fitness to Practise Panel that has made an interim order in proceedings on any case shall not sit as a member of a Fitness to Practise Panel in any subsequent proceedings in that case; and

(c) a person who is a member of the Investigation Committee or a Registration Decisions Panel may not at the same time be a member of an Interim Orders Panel, a Registration Appeals Panel or a Fitness to Practise Panel.

23B. Rules under paragraph 19A, 19B, 19C, 19D or 19E above may make provision as to quorum.

24. Rules under paragraph 19A, 19B, 19C, 19D or 19E above shall not come into force until approved by order of the Privy Council.".

(4) In paragraph 25— 13.

(a) in sub-paragraph (1) omit "out of their membership";

(b) after sub-paragraph (1) insert—

"(1A) Any committee of the General Council may consist of or include persons who are not members of the Council.";

(c) at the beginning of sub-paragraph (2) insert—

"Subject to and in accordance with paragraph 23 above,"; and

(d) for sub-paragraph (4) substitute—

"(4) Except where rules made by virtue of paragraph 23B above make provision as to quorum in the case of any of the statutory committees, the quorum of a committee of the General Council shall be such as the Council may from time to time determine.

(5) There shall be paid to the members of the committees of the General Council such remuneration and such travelling, subsistence or other expenses as the Council may allow.".

PART IV

REGISTRATION

Registration

6. —(1) Part III (registration of persons qualifying overseas) is amended as follows.

(2) For section 19 (full registration of persons by virtue of recognised overseas qualifications) substitute—

"Full registration of EEA nationals etc. by virtue of overseas primary qualifications etc.

19.—(1) Where an exempt person satisfies the Registrar—

(a) that he holds an acceptable overseas qualification other than a primary European qualification;

(b) that he has acquired experience in the practice of medicine, whether in the course of employment in the United Kingdom or in the course of employment outside the United Kingdom, which is not less extensive than that required for a certificate under section 10 above; and

(c) that he is of good character,

that person shall, if the General Council think fit so to direct, be registered under this section as a fully registered medical practitioner.

(2) In this Act "exempt person" means a person who—

(a) is a national of an EEA State other than the United Kingdom;

(b) is a national of the United Kingdom who is exercising an enforceable Community right; or

(c) is not a national of an EEA State, but is, by virtue of a right conferred by article 11 of Regulation (EEC) No 1612/68, or any other enforceable Community right, entitled to be treated, for the purposes of access to the medical profession, no less favourably than a national of such a State.

(3) In determining an application by any person for registration under this section, the General Council shall take into account—

(a) if the applicant holds a qualification granted outside the European Economic Area which has been accepted by another EEA State as qualifying him to practise as a medical practitioner in that State, the acceptance of the qualification; and

(b) all medical qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of his application.

(4) Subsection (4) of section 10 above shall apply to a person prevented from embarking on, or completing, a period of experience required for the purposes of this section as it applies to a person prevented from embarking on, or completing, a period of experience required for the purposes of that section.".

(3) Omit section 20 (experience required for full registration by virtue of recognised overseas qualifications).

(4) In section 21 (provisional registration)—

(a) in subsection (1) for "section 20(2)(a)" substitute "section 19(1)(b)";

(b) in subsection (2) omit ", (b)"; and

(c) for subsection (2A) substitute—

"(2A) Subsection (3) of section 19 above applies in relation to an application for registration under this section as it applies in relation to an application for registration under that section.".

(5) After section 21 insert—

"Full registration for eligible specialists and qualified general practitioners

21A.—(1) Where a person satisfies the Registrar—

(a) that he holds an acceptable overseas qualification other than a primary European qualification;

(b) that he is an eligible specialist or a qualified general practitioner;

(c) that he is of good character; and

(d) that he has the necessary knowledge of English or is an exempt person,

that person shall, if the General Council think fit so to direct, be registered under this section as a fully registered medical practitioner.

(2) In subsection (1)(b) above—

"eligible specialist" means a person—

(a) who—

(i) has specialist medical qualifications awarded outside the United Kingdom in a medical specialty in which the United Kingdom awards a CCST; and

(ii) has satisfied the competent authority that those qualifications are equivalent to a CCST, or

(b) who—

(i) has specialist medical qualifications awarded outside the United Kingdom in a specialty in which the United Kingdom does not award a CCST, or

(ii) has knowledge of or experience in any medical specialty derived from academic or research work,

and has satisfied the competent authority that these give him a level of knowledge and skill consistent with practice as a consultant in that specialty in the National Health Service; and

"qualified general practitioner" means a person who has been awarded a Certificate of Equivalent Experience by the Joint Committee on Postgraduate Training for General Practice.

(3) In this section—

"CCST" means a Certificate of Completion of Specialist Training; and

"competent authority" means the competent authority for the purpose of article 9(2) and (3) of the European Specialist Medical Qualifications Order 1995.".

(6) In section 22 (limited registration of persons by virtue of overseas qualifications)—

(a) for subsection (1)(a) substitute—

"(a) that he has been selected for employment in the British Islands of a description approved by the General Council for the purposes of this section;";

(b) in subsection (1)(c) omit "(within the meaning of section 19 above)"; and

(c) for subsection (1A) substitute—

"(1A) In determining an application by an exempt person for registration under this section, the General Council shall take into account—

(a) if the applicant holds, has held or has passed the examination necessary for obtaining a qualification granted outside the European Economic Area which has been accepted by another EEA State as qualifying him to practise as a medical practitioner in that State, the acceptance of the qualification; and

(b) all medical qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of his application.".

(7) In section 24(3)(a) (limited registration: erasure) omit "a particular employment or".

(8) In section 25 (full registration of persons with limited registration) omit "under section 19 above".

(9) In section 26 (registration of qualifications)—

(a) in subsection (1)—

(i) for "19 or 21" substitute "19, 21 or 21A",

(ii) for "recognised overseas qualification or qualifications" substitute "acceptable overseas qualification",

(iii) omit paragraph (a), and

(iv) in paragraph (b) for the words from "subject to" to "(other than a recognised overseas qualification)" substitute "subject to subsection (3) below, any overseas qualification"; and

(b) in subsection (2) omit "section 19 above by virtue of".

(10) In section 27(1) (temporary full registration for visiting overseas practitioners)—

(a) in paragraph (a) omit "recognised overseas qualifications or";

(b) omit the word "and" at the end of paragraph (b); and

(c) at the end of paragraph (c) insert "; and

(d) that he is of good character,".

(11) Omit sections 28 (the Review Board for Overseas Qualified Practitioners) and 29 (functions of the Review Board).

The Register and proof of registration

7.—(1) Part IV (general provisions concerning registration) is amended as follows.

(2) In section 30 (the registers)—

(a) in subsection (1)—

(i) for "contain" substitute "include",

(ii) in paragraph (a) from "section 19 or 21" to the end of that paragraph substitute "section 19, 21, 21A or 25 above;", and

1/7/13 → (iii) omit paragraph (b); and

(b) in each of subsections (2) and (3) for "contain" substitute "include".

(3) In section 31 (power to make regulations with respect to the registers)—

(a) omit subsections (5) to (7);

1/7/13 (b) in subsection (8) omit "subsection (6) above or";

(c) in subsection (9) omit from "but nothing" to the end of that subsection; and

(d) in subsection (10) omit "(5), (6),".

(4) For section 34 (the Medical Register and Overseas Medical Register) substitute—

"The Register

34.—(1) The Registrar shall cause to be published from time to time (electronically or otherwise) a list of all persons who, on a date specified by him at the time of publication, appear in—

(a) the register of medical practitioners; or

(b) the register of medical practitioners with limited registration.

(2) The list published in accordance with subsection (1) above shall include in respect of each practitioner— 2/13

(a) information about his registered qualifications;

never. (b) a statement about whether or not he holds a licence to practise; and

(c) such other particulars (if any) as the General Council may direct in relation to that list.".

(5) After section 34 insert—

"Proof of registration

34A.—(1) The Registrar may issue a certificate that a person—

(a) is registered;

(b) is not registered;

(c) was registered at a specified date or during a specified period;
(d) was not registered at a specified date or during a specified period;
(e) has never been registered;
(f) holds a licence to practise;
(g) does not hold a licence to practise;
(h) held a licence to practise at a specified date or during a specified period;
(i) did not hold a licence to practise at a specified date or during a specified period; or
(j) has never held a licence to practise.

(2) A certificate issued under subsection (1) above shall be evidence (and in Scotland sufficient evidence) of the matters certified.".

Registration appeals

8.—(1) After section 34A insert—

"Registration appeals

34B. Schedule 3A to this Act (which makes provision about appeals against registration decisions) shall have effect.".

(2) After Schedule 3 insert—

"SCHEDULE 3A

Section 34B

REGISTRATION APPEALS

Interpretation

1. In this Schedule—

"appealable registration decision" shall be construed in accordance with paragraph 2 below;

"person concerned" means the person in respect of whom an appealable registration decision is made or, as the case may be, an applicant to whom paragraph 3(2) below applies;

"person making the decision" means—

(a) in relation to a decision on an application made under paragraph 2 of Schedule 3 to this Act, the appropriate registrar as defined in sub-paragraph (3) of that paragraph;

(b) in relation to a decision under section 18, 44 or 44A of this Act, the Registrar; and

(c) in any other case, the General Council; and

"the requisite period" has the meaning given by paragraph 5(1A) of Schedule 3 to this Act.

Appealable registration decisions

2.—(1) The following decisions are appealable registration decisions for the purposes of this Schedule—

(a) a decision on an application made under Schedule 3 to this Act not to register the applicant under section 3 of this Act as a fully registered medical practitioner (registration by virtue of primary United Kingdom or primary European qualifications);

(b) a decision on an application made under Schedule 3 to this Act not to register the applicant provisionally under section 15 of this Act (provisional registration);

(c) a decision on an application made under Schedule 3 to this Act not to register the applicant provisionally under section 15A of this Act (provisional registration for EEA nationals);

(d) a decision on an application made under Schedule 3 to this Act not to register a qualification under section 16(1) of this Act (registration of qualifications);

(e) a decision that a person shall not, or shall no longer, be registered under section 18 of this Act (visiting EEC practitioners);

(f) a decision not to direct that a person shall be registered under section 19(1) of this Act (full registration of EEA nationals etc. by virtue of overseas primary qualifications etc.);

(g) a decision not to direct that a person shall be registered provisionally under section 21(2) of this Act (provisional registration);

(h) a decision not to direct that a person shall be registered under section 21A(1) of this Act (full registration for eligible specialists and qualified general practitioners) as a fully registered medical practitioner;

(i) a decision under section 22 of this Act (limited registration of persons by virtue of overseas qualifications)—

(i) not to direct that a person shall be registered, or registered for a further period, as a medical practitioner with limited registration, or

(ii) defining the limits of a person's registration;

(j) a decision under section 24(2) of this Act giving a direction for erasure;

(k) a decision not to direct under section 25 of this Act (full registration of persons with limited registration) that a person be registered as a fully registered medical practitioner;

(l) a decision not to register a qualification under section 26(1) or (2) of this Act (registration of qualifications);

(m) a decision under section 27 of this Act (temporary full registration for visiting overseas specialists)—

(i) not to direct that a person be registered temporarily as a fully registered medical practitioner, or

(ii) giving a direction that such registration shall be for a period of less than twelve months;

(n) a decision under section 44 of this Act (effect of disqualification in another member State on registration in the United Kingdom)—

(i) under subsection (1) or (7), not to register a person, or

(ii) under subsection (3), to remove a person's name from the register;

(o) a decision under section 44A of this Act (effect of disqualification or conviction on registration)—

(i) under subsection (1), not to register a person, or

(ii) under subsection (2), to remove a person's name from the register.

(2) But a decision is not an appealable registration decision for the purposes of this Schedule if it is a decision to refuse registration to a person, or to erase a person's name from the register, by reason only that the person failed to—

(a) pay the prescribed fee for registration;

(b) make an application as required under this Act; or

(c) produce a certificate obtained under section 10 of this Act.

Notice of appealable registration decisions

3.—(1) Where an appealable registration decision is made, the person making the decision shall give the person concerned notice of—

(a) the decision;

(b) the reasons for the decision; and

(c) the person's right to appeal under paragraph 4 below.

(2) Failure to notify an applicant of a decision made in respect of an application for registration under section 3, 19, 21A or 22 of this Act within the requisite period shall be treated as a decision from which the applicant may appeal under paragraph 4 below.

Appeals from appealable registration decisions

4.—(1) A person in respect of whom an appealable registration decision has been made may appeal against the decision to a Registration Appeals Panel.

(2) An appeal under sub-paragraph (1) above shall be made by giving notice of appeal to the Registrar.

(3) Any such notice of appeal must be given before the end of the period of 28 days beginning with the date on which notice of the decision was given under paragraph 3(1) above.

This sub-paragraph is subject to any extension of time under paragraph 7 below.

(4) In the case of an appeal by virtue of paragraph 3(2) above, notice of appeal must be given before the end of the period of 28 days following the end of the requisite period.

(5) Where a decision to erase or remove a medical practitioner from the register is an appealable registration decision, the decision shall not be carried into effect—

(a) until the time for bringing any appeal against the decision has expired without an appeal being brought; or

(b) where an appeal is brought, until the date on which the appeal is finally disposed of or abandoned or fails by reason of its non-prosecution.

(6) Any rules made under paragraph 3 of Schedule 3B to this Act shall apply in relation to an appeal under this Schedule as they apply in relation to an appeal under section 29F of this Act.

(7) Paragraphs 2 and 7 of Schedule 4 to this Act shall apply in relation to proceedings under this Schedule before a Registration Appeals Panel as they apply to proceedings before a Fitness to Practise Panel.

(8) In disposing of an appeal under this paragraph, a Registration Appeals Panel may determine to—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision appealed against;

(c) substitute for the decision appealed against any other decision which could have been made by the person making the decision;

(d) remit the case to the person making the decision to dispose of in accordance with the directions of the Registration Appeals Panel,

and a Panel may make such order as to costs (or, in Scotland, expenses) as they think fit.

(9) A Registration Appeals Panel shall, as soon as reasonably practicable—

(a) give the person concerned, and the person making the decision, notice of the Panel's determination on an appeal under sub-paragraph (1) above and of the reasons for that determination; and

(b) if that determination is not a determination under sub-paragraph (8)(b) above, give the person concerned notice of his right of appeal under paragraph 5 below.

Appeals from a Registration Appeals Panel

5.—(1) Where—

(a) a Registration Appeals Panel determines an appeal under paragraph 4 above; and

(b) the Panel's determination is any determination other than a determination under paragraph 4(8)(b) above to allow the appeal and quash the decision appealed against,

the person concerned may, before the end of the period of 28 days beginning with the date on which notice of the determination was given to him under paragraph 4(9), appeal against the determination to the relevant court.

(2) In this paragraph, "the relevant court" means the county court or, in Scotland, the sheriff.

(3) In sub-paragraph (2) above, "the sheriff" means the sheriff in whose sheriffdom is situated the address—

(a) which is shown in the register as the address of the person concerned; or

(b) which would have been so shown if the person concerned were registered.

(4) On an appeal under this paragraph from a Registration Appeals Panel, the relevant court may—

(a) dismiss the appeal;

(b) allow the appeal and quash the determination appealed against;

(c) substitute for the determination appealed against any other determination which could have been made by the Registration Appeals Panel;

(d) remit the case to the Registrar for him to refer it to a Registration Appeals Panel to dispose of the case in accordance with the directions of the relevant court,

and may make such order as to costs (or, in Scotland, expenses) as the relevant court thinks fit.

Notices

6.—(1) Any notice required to be given under paragraph 3 or 4(9) above to the person concerned may be given—

(a) by delivering it to him;

(b) by leaving it at his proper address;

(c) by sending it by a registered post service; or

(d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.

(2) For the purposes of this paragraph and of section 7 of the Interpretation Act 1978 in its application to this paragraph, the proper address of the person concerned shall be—

(a) the address—

(i) which is shown in the register as his address, or

(ii) which would have been so shown if he were registered; or

(b) if the conditions in sub-paragraph (3) below are satisfied, his last known address.

(3) The conditions are that—

(a) the last known address of the person concerned differs from the address mentioned in sub-paragraph (2)(a) above; and

(b) it appears to the body or person giving the notice that a letter sent to the person concerned at his last known address is more likely to reach him.

(4) For the purposes of this paragraph—

(a) the giving of a notice effected by sending it by post shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and

(b) so much of section 7 of the Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice sent by post.

Extension of time for appealing

7. Where—

(a) any notice required by paragraph 3(1) above to be given to the person concerned is given by sending it to him by post; and

(b) the Registrar is satisfied, on the application of that person, that he did not receive the notice within the period of 14 days beginning with the day on which the person making the decision gave the decision to which the notice relates,

the Registrar may, if he thinks fit, by authorisation in writing extend the time for giving notice of appeal under paragraph 4(2) above.".

Further and supplementary

9. (1) In section 2(2) (registration of medical practitioners) —

(a) for "four lists" substitute "three lists"; and

(b) omit paragraph (b).

(2) In section 16(1)(c) (registration of qualifications) omit "recognised overseas qualification or other".

(3) In paragraph 11 of Part II of Schedule 1 (incidental powers and duties and proceedings of the General Medical Council) for "section 19, 21 or 22" substitute "section 21A or 22".

(4) In Schedule 3 (registration: supplementary provisions) in paragraph 2 (to which registrar application to be made)—

(a) in sub-paragraph (1)(a) for "paragraph (a) of section 3" substitute "section 3(1)(a)";

(b) in sub-paragraph (1)(b) for "section 3(b)" substitute "section 3(1)(b)";

(c) in sub-paragraph (2)(a) for "paragraph (b) of section 3" substitute "section 3(1)(b)"; and

(d) omit paragraph (b) of sub-paragraph (2).

(5) In paragraph 5 of that Schedule (issue of certificates of registration)—

(a) in sub-paragraph (1)(b), omit the words from "in the case of" to "such a national),";

(b) in sub-paragraph (1A)—

(i) for "In sub-paragraph (1) above" substitute "In this paragraph", and

(ii) for sub-paragraph (b) substitute—

"(b) in a case to which Directive 93/16/EEC applies, such longer period as is permitted by article 15 of that Directive.";

(c) in sub-paragraph (2), for "22" substitute "21A, 22 and 25"; and

(d) after sub-paragraph (4) insert—

"(4A) A certificate of registration required to be issued under sub-paragraph (2) or (3) above shall be issued before the end of the requisite period.".

PART V

LICENCE TO PRACTISE AND REVALIDATION

Insertion of Part IIIA

10. After Part III (registration of persons qualifying overseas) insert—

"PART IIIA

LICENCE TO PRACTISE AND REVALIDATION

Duty of General Council to make regulations

Regulations as to licence to practise and revalidation

29A.—(1) Any reference in this Act to a "licence to practise" is a reference to a licence granted under and in accordance with this Part to a medical practitioner by a licensing authority.

(2) The General Council shall make regulations with respect to licences to practise.

(3) The provisions made by regulations under subsection (2) above must include provision for or in connection with each of the matters specified in subsection (4) below.

(4) Those matters are—

(a) grant of a licence to practise;

(b) refusal of a licence to practise;

(c) withdrawal of a licence to practise; and

(d) revalidation of a medical practitioner of a prescribed description as a condition of his continuing to hold a licence to practise.

(5) In this Part—

"licensing authority" means—

(a) the Registrar;

(b) a Registration Decisions Panel;

(c) such other committee of the General Council as may be prescribed; or

(d) such other officer of the General Council as may be prescribed;

"prescribed" means prescribed by regulations made by the General Council under subsection (2) above; and

"revalidation" means evaluation of a medical practitioner's fitness to practise.

Grant, refusal and withdrawal of licence

Grant, refusal and withdrawal of licence

29B.—(1) Regulations under section 29A above shall provide for a licence to practise to be granted to a medical practitioner—

(a) on first registration under this Act as a medical practitioner with either full registration or limited registration;

(b) on being provisionally registered under this Act; and

(c) in such other cases or circumstances as may be prescribed.

(2) Regulations under section 29A above shall provide for the withdrawal of a licence to practise from a medical practitioner—

(a) where the practitioner has failed to comply with prescribed requirements of regulations under section 29A above;

(b) where the licence to practise was fraudulently procured or otherwise incorrectly granted;

(c) where the medical practitioner requests that the licence to practise be withdrawn; and

(d) in such other cases or circumstances as may be prescribed.

(3) Regulations under section 29A above shall make provision as to the procedure to be followed in connection with the grant or refusal, or the withdrawal, of a licence to practise by a licensing authority.

(4) If a licensing authority decides—

(a) to refuse to grant a licence to practise to a medical practitioner; or

(b) to withdraw a licence to practise from a medical practitioner,

the Registrar shall give the practitioner notice in accordance with subsection (5) below.

(5) The notice required by subsection (4) above is notice of—

(a) the decision;

(b) the reasons given for the decision by the licensing authority concerned; and

(c) the practitioner's right of appeal under section 29F below.

(6) Section 29H below applies in relation to a notice under subsection (4) above.

Referral to the Investigation Committee

29C.—(1) Regulations under section 29A above shall provide that where, in the course of revalidation, it appears to a licensing authority that the fitness to practise of the medical practitioner concerned may be impaired, the authority may refer the matter to the Investigation Committee.

(2) If a matter is referred to the Investigation Committee in accordance with subsection (1) above, the licensing authority shall take no further action until the matter has been considered—

(a) by the Investigation Committee; or

(b) if it is referred by that Committee to a Fitness to Practise Panel, by such a Panel,

and has been referred back to the authority.

Restoration of licence

Restoration of licence

29D.—(1) The General Council shall make regulations under section 29A above for and in connection with authorising or requiring a licensing authority, in such cases or circumstances as may be prescribed, to restore a licence to practise to a medical practitioner whose licence to practise has been withdrawn.

(2) Regulations by virtue of subsection (1) above shall make provision as to the procedure to be followed in connection with the restoration, or the refusal of the restoration, of a licence to practise by a licensing authority.

(3) If a licensing authority refuses to restore a licence to practise to a medical practitioner, the Registrar shall give the practitioner notice of—

(a) the decision;

(b) the reasons given for the decision by the licensing authority concerned; and

(c) the practitioner's right of appeal under section 29F below.

(4) Section 29H below applies in relation to a notice under subsection (3) above.

Supplementary provisions

Evidence

29E.—(1) Regulations under section 29A above may make provision for a licensing authority—

(a) to refuse to grant a licence to practise to a medical practitioner;

(b) to withdraw a licence to practise from a medical practitioner; or

(c) to refuse to restore a licence to practise to a medical practitioner,

in any case where the medical practitioner does not provide the licensing authority with such evidence or information as the authority may reasonably request for any of the purposes specified in subsection (2) below.

(2) The purposes are those of—

(a) determining whether to grant a licence to practise to the practitioner;

(b) revalidation of the practitioner;

(c) determining whether to withdraw a licence to practise from the practitioner; and

(d) determining whether to restore a licence to practise to the practitioner.

(3) For the purpose of carrying out any function under sections 29A to 29D above in relation to a medical practitioner, a licensing authority may require—

(a) any medical practitioner (other than that practitioner), or

(b) any other person,

who, in the opinion of the authority, is able to supply information, or produce any document, which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(4) For the purpose of reviewing procedures relating to—

(a) revalidation; or

(b) the grant, withdrawal or restoration of a licence to practise,

a licensing authority may require any medical practitioner or other person to supply information or produce any document.

(5) Nothing in subsection (3) or (4) above shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(6) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, a licensing authority may, in exercising its functions under subsection (3) or (4) above, require that the information be put into a form which is not capable of identifying that individual.

(7) In determining for the purposes of subsection (5) above whether a disclosure is not prohibited, by reason of being a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of section 35(1) of that Act, it shall be assumed that the disclosure is required by or under this section.

(8) Subsections (3) and (4) do not apply in relation to the supplying of information or the production of a document which a person could not be compelled to supply or produce in civil proceedings before the relevant court (within the meaning of section 40(5) below).

(9) In this section "enactment" includes—

(a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and

(b) any provision of, or any instrument made under, Northern Ireland legislation.

Appeals

29F.—(1) If a licensing authority decides under this Part—

(a) to refuse to grant a licence to practise to a medical practitioner;

(b) to withdraw a licence to practise from a medical practitioner; or

(c) to refuse to restore a licence to practise to a medical practitioner,

the practitioner may appeal to a Registration Appeals Panel.

(2) Schedule 3B (which provides for the procedures to be followed before a Registration Appeals Panel) shall apply in relation to any appeal under subsection (1) above.

(3) A decision under this Part to withdraw a licence to practise from a medical practitioner shall not be carried into effect—

(a) until the time for bringing any appeal against the decision has expired without an appeal being brought; or

(b) where an appeal is brought, until the date on which the appeal is finally disposed of or abandoned or fails by reason of its non-prosecution.

Guidance

29G.—(1) The General Council may publish guidance for medical practitioners relating to the information and documents to be provided, and any other requirements to be satisfied—

(a) for the purposes of revalidation; or

(b) for securing restoration of a licence to practise.

(2) In preparing any such guidance in relation to revalidation, the General Council shall take into account such similarities as there may be between any information or documents to be provided, or any other requirements to be satisfied—

(a) for the purposes of revalidation; and

(b) for the purposes of any scheme for the appraisal of medical practitioners which applies within the health service, the Scottish health service or the Northern Ireland health service.

(3) In subsection (2) above—

"the health service" means the health service established in pursuance of the National Health Service Act 1946;

"the Northern Ireland health service" means any service provided in pursuance of Article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972; and

"the Scottish health service" means the health service established in pursuance of the National Health Service (Scotland) Act 1947.

Notices

29H.—(1) This section applies to any notice required to be given to a medical practitioner under—

(a) section 29B or 29D above; or

(b) paragraph 6 or 7 of Schedule 3B to this Act.

(2) Any such notice may be so given—

(a) by delivering it to him;

(b) by leaving it at his proper address;

(c) by sending it by a registered post service; or

(d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.

(3) For the purposes of this section and of section 7 of the Interpretation Act 1978 in its application to this section, a medical practitioner's proper address shall be—

(a) his address in the register; or

(b) if the conditions in subsection (4) below are satisfied, his last known address.

(4) The conditions are that—

(a) the practitioner's last known address differs from his address in the register; and

(b) it appears to the body or person giving the notice that a letter sent to the practitioner at his last known address is more likely to reach him.

(5) For the purposes of this section—

(a) the giving of a notice effected by sending it by post shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and

(b) so much of section 7 of the Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice sent by post.

Miscellaneous

29J.—(1) Regulations under section 29A above may provide for the charging of a fee to a medical practitioner in respect of the cost of—

(a) his revalidation; or

(b) the consideration of any application made by him for restoration of a licence to practise.

(2) Any sum payable by a medical practitioner under subsection (1) above may be recovered by the General Council and, in England and Wales or Northern Ireland, shall be recoverable summarily as a civil debt.

(3) Regulations under section 29A above may make different provision for different purposes, cases or circumstances.

(4) Regulations under section 29A above shall not have effect until approved by order of the Privy Council.

(5) Before making regulations under section 29A above, the General Council shall consult such bodies of persons representing medical practitioners, or medical practitioners of any description, as appear to the Council requisite to be consulted.".

Insertion of new Schedule 3B

11. After Schedule 3A insert—

"SCHEDULE 3B

Section 29F.

LICENCE TO PRACTISE AND REVALIDATION: APPEALS

Manner of, and time for, appealing

1.—(1) A medical practitioner who wishes to appeal to a Registration Appeals Panel under section 29F of this Act against a decision of a licensing authority must give written notice of appeal to the Registrar.

(2) Any such notice of appeal must be given within the period of 28 days beginning with the day on which the practitioner is given notice of the decision of the licensing authority.

(3) Sub-paragraph (2) above is subject to paragraph 2 below.

Extension of time for appealing

2. Where—

(a) any notice required by section 29B or 29D to be given to a medical practitioner by the Registrar is given by sending it to him by post; and

(b) the Registrar is satisfied, on the application of the practitioner, that the practitioner did not receive the notice within the period of 14 days beginning with the day on which the licensing authority gave the decision to which the notice relates,

the Registrar may, if he thinks fit, by authorisation in writing extend the time for giving notice of appeal under paragraph 1 above.

Rules as to procedure and evidence

3.—(1) The General Council shall make rules as to—

(a) the procedure to be followed; and

(b) the rules of evidence which are to apply,

in proceedings before a Registration Appeals Panel.

(2) Rules made under this paragraph shall include provision—

(a) securing that notice of the time and place of any hearing is given, at such time and in such manner as may be specified in the rules, to the medical practitioner to whom the proceedings relate;

(b) securing that any party to proceedings before a Registration Appeals Panel shall, if he so requires, be entitled to be heard by the Panel;

(c) enabling any party to the proceedings to be represented by counsel or solicitor, or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules; and

(d) requiring proceedings to be held in public if the medical practitioner to whom the proceedings relate so requests, unless and to the extent that the rules provide otherwise.

(3) In sub-paragraph (2) above, "party", in relation to any proceedings, means—

(a) the medical practitioner to whom the proceedings relate; or

(b) the Solicitor to the General Council.

(4) Paragraphs 2 and 7 of Schedule 4 to this Act shall apply in relation to proceedings before a Registration Appeals Panel as they apply in relation to proceedings before a Fitness to Practise Panel.

(5) Rules under this paragraph shall not come into force until approved by order of the Privy Council.

(6) The Privy Council may approve such rules—

(a) as submitted to them; or

(b) subject to such modifications as appear to them to be requisite.

(7) Where the Privy Council propose to approve rules under this paragraph subject to modifications, they shall—

(a) notify the General Council of the modifications they propose to make; and

(b) consider any observations which the General Council may make on the modifications.

(8) Before making rules under this paragraph the General Council shall consult such bodies of persons representing medical practitioners, or medical practitioners of any description, as appear to the Council requisite to be consulted.

References to the Investigation Committee

4.—(1) Where a matter—

(a) arises in the course of proceedings relating to a medical practitioner before a Registration Appeals Panel; and

(b) ought, in the opinion of the Panel, to be investigated by the Investigation Committee,

sub-paragraph (2) below applies.

(2) In any such case, the Registration Appeals Panel may—

(a) adjourn the proceedings; and

(b) give a direction to the Registrar to refer the matter to the Investigation Committee.

Powers of Registration Appeal Panels disposing of an appeal

5. In disposing of an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, the determinations that may be made by a Registration Appeals Panel are—

(a) if the appeal is against a decision to refuse to grant a licence to practise, that a licence to practise should, or (as the case may be) should not, be granted to the practitioner;

(b) if the appeal is against a decision to withdraw a licence to practise, that a licence to practise should, or (as the case may be) should not, be withdrawn from the practitioner; or

(c) if the appeal is against a decision to refuse to restore a licence to practise, that a licence to practise should, or (as the case may be) should not, be restored to the practitioner,

and a Panel may make such orders as to costs (or, in Scotland, expenses) as they think fit.

Successful appeals

6.—(1) This paragraph applies in any case where, on an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, a Registration Appeals Panel determines—

(a) that a licence to practise should be granted to the medical practitioner;

(b) that a licence to practise should not be withdrawn from the medical practitioner; or

(c) that a licence to practise should be restored to the medical practitioner.

(2) The Registration Appeals Panel shall give notice to the Registrar informing him of the determination and directing him accordingly—

(a) to grant the licence;

(b) not to withdraw the licence; or

(c) to restore the licence.

(3) The Registrar shall give notice of the determination to the medical practitioner.

(4) Section 29H of this Act applies in relation to any notice under sub-paragraph (2) above.

Unsuccessful appeals

7.—(1) This paragraph applies in any case where, on an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, a Registration Appeals Panel determines—

(a) that a licence to practise should not be granted to the medical practitioner;

(b) that a licence to practise should be withdrawn from the medical practitioner; or

(c) that a licence to practise should not be restored to the medical practitioner.

(2) The Registration Appeals Panel shall give notice to the Registrar—

(a) informing him of the determination; and

(b) if the determination is that a licence to practise should be withdrawn from the medical practitioner, directing him to withdraw the licence.

(3) The Registrar shall give the medical practitioner notice of—

(a) the determination; and

(b) his right under paragraph 8 below to appeal against the determination.

(4) Any direction under sub-paragraph (2)(b) above has effect subject to section 29F(3) of this Act (no implementation pending appeal).

(5) Section 29H of this Act applies in relation to any notice under sub-paragraph (2) above.

Further appeal to court against determination within paragraph 7

8.—(1) Where, on an appeal under section 29F of this Act by a medical practitioner, a Registration Appeals Panel makes a determination falling within sub-paragraph (1) of paragraph 7 above, the practitioner may appeal against the determination.

(2) Any such appeal must be made within the period of 28 days beginning with the day on which the practitioner is given notice under paragraph 7 above of the determination of the Registration Appeals Panel.

(3) Any such appeal must be made to a county court or, in Scotland, to the sheriff.

(4) In sub-paragraph (3) above "the sheriff" means the sheriff in whose sheriffdom is situated the address—

(a) which is shown in the register as the practitioner's address; or

(b) which would be so shown, if the practitioner were registered.

(5) On appeal under this paragraph from a Registration Appeals Panel, the county court or the sheriff may—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision appealed against; or

(c) remit the case to the Registrar for him to refer it to a Registration Appeals Panel to dispose of in accordance with the directions of the court (or the sheriff),

and may make such orders as to costs (or, in Scotland, expenses) as it (or he) thinks fit.".

Supplementary

12.—(1) For section 30(3) (the registers) substitute—

"(3) Each register shall also include, in respect of each of the persons entered in it, a statement of the following—

(a) the person's address;

(b) the person's date of registration;

(c) whether the person holds a licence to practise or not;

(d) any qualifications which the person is entitled to have registered under section 16 or 26 above; and

(e) any other particulars prescribed in the case of a person entered in that register.".

(2) In section 31(9) (power to make regulations with respect to the registers) for paragraph (b) substitute—

"(b) for securing that, in such circumstances as may be prescribed, such a person's name is not so restored unless—

(i) the General Council or a committee of the General Council so direct after making such investigation into his fitness to practise as they think fit,

(ii) the practitioner's licence to practise is restored in accordance with the regulations, or

(iii) both (i) and (ii) are met.".

(3) In section 31A (voluntary removal from the register), after subsection (1) insert—

"(1A) Regulations under subsection (1)(c) above shall provide that, in such circumstances as may be prescribed, a person's name is not to be restored to the register unless—

(a) the General Council or a committee of the General Council so direct after making such investigation into his fitness to practise as they think fit;

(b) the practitioner's licence to practise is restored in accordance with the regulations; or

(c) both (a) and (b) are met.

(1B) In subsection (1A) above, "prescribed" means prescribed under regulations made under subsection (1) above.".

(4) In section 46 (recovery of fees), in subsections (1) and (3) after the words "fully registered" insert in both places "and holds a licence to practise".

(5) In section 47 (appointments not to be held except by fully registered practitioners)—

(a) in subsection (1) for the words from the beginning to "medical officer" substitute—

"Subject to subsection (2) below, only a person who is fully registered and who holds a licence to practise may hold an appointment as physician, surgeon or other medical officer—"; and

(b) in consequence of that amendment, the sidenote to the section becomes "Appointments not to be held except by fully registered medical practitioner who holds licences to practise".

(6) In section 48 (certificates invalid if not signed by fully registered practitioner)—

(a) at the end add "and holds a licence to practise"; and

(b) in consequence of that amendment, the sidenote to the section becomes "Certificates invalid if not signed by fully registered medical practitioners who holds a licence to practise".

(7) After section 49 insert—

"Penalty for pretending to hold a licence to practise

49A.—(1) If a person who does not hold a licence to practise —

(a) holds himself out as having such a licence; or

(b) engages in conduct calculated to suggest that he has such a licence,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any penalty to which a person is liable on summary conviction under subsection (1) above may be recovered in Scotland by any person before the sheriff or the district court who may, on the appearance or the default to appear of the accused, proceed to hear the complaint, and where the

offence is proved or admitted the sheriff or court shall order the accused to pay the penalty as well as such expenses as the sheriff or court shall think fit.

(3) Any sum of money arising from conviction and recovery of penalties as mentioned in subsection (2) above shall be paid to the Treasurer of the General Council.".

(8) In paragraphs 11(1) and (2) of Schedule 6 (transitional and saving provisions) for "fully registered person" substitute "registered medical practitioner".

PART VI

FITNESS TO PRACTISE

Substitution of Part V

13. For Part V (professional conduct and fitness to practise) substitute—

"PART V

FITNESS TO PRACTISE AND MEDICAL ETHICS

General Council's power to advise on conduct, performance or ethics

35. The powers of the General Council shall include the power to provide, in such manner as the Council think fit, advice for members of the medical profession on—

(a) standards of professional conduct;

(b) standards of professional performance; or

(c) medical ethics.

General Council's power to require disclosure of information

35A.—(1) For the purpose of assisting the General Council or any of their committees in carrying out functions in respect of a practitioner's fitness to practise, a person authorised by the Council may require—

(a) a practitioner (except the practitioner in respect of whom the information or document is sought); or

(b) any other person,

who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(2) As soon as is reasonably practicable after the relevant date, the General Council shall require, from a practitioner whose fitness to practise is being investigated, details of any person—

(a) by whom the practitioner is employed to provide services in, or in relation to, any area of medicine; or

(b) with whom he has an arrangement to do so.

(3) For the purposes of this section and section 35B below the relevant date is the date specified by the General Council by rules under paragraph 1 of Schedule 4 of this Act.

(4) Nothing in this section shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(5) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in subsection (1) above may, in exercising his functions under that subsection, require that the information be put into a form which is not capable of identifying that individual.

(5A) In determining for the purposes of subsection (4) above whether a disclosure is not prohibited, by reason of being a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of section 35(1) of that Act, it shall be assumed that the disclosure is required by this section.

(6) Subsection (1) above does not apply in relation to the supplying of information or the production of a document which a person could not be compelled to supply or produce in civil proceedings before the relevant court (within the meaning of section 40(5) below).

(7) For the purposes of subsection (4), "enactment" includes—

(a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and

(b) any provision of, or any instrument made under, Northern Ireland legislation.

(8) For the purposes of this section and section 35B below, a "practitioner" means a fully registered person, a provisionally registered person or a person registered with limited registration.

Notification and disclosure by the General Council

35B.—(1) As soon as is reasonably practicable after the relevant date, the General Council shall notify the following of an investigation by the General Council of a practitioner's fitness to practise—

(a) the Secretary of State, the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales; and

(b) any person in the United Kingdom of whom the General Council are aware—

(i) by whom the practitioner concerned is employed to provide services in, or in relation to, any area of medicine, or

(ii) with whom he has an arrangement to do so.

(2) The General Council may disclose to any person any information relating to a practitioner's fitness to practise which they consider it to be in the public interest to disclose.

Functions of the Investigation Committee

35C.—(1) This section applies where an allegation is made to the General Council against—

(a) a fully registered person;

(b) a person who is provisionally registered; or

(c) a person who is registered with limited registration,

that his fitness to practise is impaired.

(2) A person's fitness to practise shall be regarded as "impaired" for the purposes of this Act by reason only of—

(a) misconduct;

(b) deficient professional performance;

(c) a conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;

(d) adverse physical or mental health; or

(e) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of that profession is impaired, or a determination by a regulatory body elsewhere to the same effect.

(3) This section is not prevented from applying because the allegation is based on a matter alleged to have occurred—

(a) outside the United Kingdom; or

(b) at a time when the person was not registered.

(4) The Investigation Committee shall investigate the allegation and decide whether it should be considered by a Fitness to Practise Panel.

(5) If the Investigation Committee decide that the allegation ought to be considered by a Fitness to Practise Panel—

(a) they shall give a direction to that effect to the Registrar;

(b) the Registrar shall refer the allegation to a Fitness to Practise Panel; and

(c) the Registrar shall serve a notification of the Committee's decision on the person who is the subject of the allegation and the person making the allegation (if any).

(6) If the Investigation Committee decide that the allegation ought not to be considered by a Fitness to Practise Panel, they may give a warning to the person who is the subject of the allegation regarding his future conduct or performance.

(7) If the Investigation Committee decide that the allegation ought not to be considered by a Fitness to Practise Panel, but that no warning should be given under subsection (6) above—

(a) they shall give a direction to that effect to the Registrar; and

(b) the Registrar shall serve a notification of the Committee's decision on the person who is the subject of the allegation and the person making the allegation (if any).

(8) If the Investigation Committee are of the opinion that an Interim Orders Panel or a Fitness to Practise Panel should consider making an order for interim suspension or interim conditional registration under section 41A below in relation to the person who is the subject of the allegation—

(a) they shall give a direction to that effect to the Registrar;

(b) the Registrar shall refer the matter to an Interim Orders Panel or a Fitness to Practise Panel for the Panel to decide whether to make such an order; and

(c) the Registrar shall serve notification of the decision on the person who is the subject of the allegation and the person making the allegation (if any).

(9) In this section—

"enactment" includes—

(a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and

(b) any provision of, or any instrument made under, Northern Ireland legislation; and

"regulatory body" means a regulatory body which has the function of authorising persons to practise as a member of a health or social care profession.

Provisions supplementary to section 35C

35CC.—(1) Rules under paragraph 1 of Schedule 4 to this Act may make provision for—

(a) the Registrar; or

(b) any other officer of the General Council,

to exercise the functions of the Investigation Committee under section 35C above, whether generally or in relation to such classes of case as may be specified in the rules.

(2) Where, by virtue of subsection (1) above, rules provide for the Registrar to exercise the functions of the Investigation Committee under subsections (5), (7) and (8) of section 35C above, those subsections shall apply in relation to him as if paragraph (a) in each of them were omitted.

(3) Section 35C above also applies in a case where—

(a) it comes to the attention of the General Council that a person's fitness to practise is called into question by one or more of the matters mentioned in subsection (2) of that section, but

(b) no allegation to that effect has been made to the Council against that person,

and in such a case section 35C shall apply as if an allegation to that effect had been made to the Council against that person.

Functions of a Fitness to Practise Panel

35D.—(1) Where an allegation against a person is referred under section 35C above to a Fitness to Practise Panel, subsections (2) and (3) below shall apply.

(2) Where the Panel finds that the person's fitness to practise is impaired they may, if they think fit—

(a) except in a health case, direct that the person's name shall be erased from the register;

(b) direct that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding twelve months as may be specified in the direction; or

(c) direct that his registration shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Panel think fit to impose for the protection of members of the public or in his interests.

(3) Where the Panel find that the person's fitness to practise is not impaired they may nevertheless give him a warning regarding his future conduct or performance.

(4)Where a Fitness to Practise Panel have given a direction that a person's registration be suspended—

(a) under subsection (2) above;

(b) under subsection (10) or (12) below; or

(c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act,

subsection (5) below applies.

(5) In such a case, a Fitness to Practise Panel may, if they think fit—

(a) direct that the current period of suspension shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction;

(b) except in a health case, direct that the person's name shall be erased from the register; or

(c) direct that the person's registration shall, as from the expiry of the current period of suspension, be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Panel think fit to impose for the protection of members of the public or in his interests,

but, subject to subsection (6) below, the Panel shall not extend any period of suspension under this section for more than twelve months at a time.

(6) In a health case, a Fitness to Practise Panel may give a direction in relation to a person whose registration has been suspended under this section extending his period of suspension indefinitely where—

(a) the period of suspension will, on the date on which the direction takes effect, have lasted for at least two years; and

(b) the direction is made not more than two months before the date on which the period of suspension would otherwise expire.

(7) Where a Fitness to Practise Panel have given a direction under subsection (6) above for a person's period of suspension to be extended indefinitely, a Fitness to Practise Panel shall review the direction if—

(a) the person requests them to do so;

(b) at least two years have elapsed since the date on which the direction took effect; and

(c) if the direction has previously been reviewed under this subsection, at least two years have elapsed since the date of the previous review.

(8) On such a review the Panel may—

(a) confirm the direction;

(b) direct that the suspension be terminated; or

(c) direct that the person's registration be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so

specified as the Panel think fit to impose for the protection of members of the public or in his interests.

(9) Where—

(a) a direction that a person's registration be subject to conditions has been given under—

(i) subsection (2), (5) or (8) above,

(ii) subsection (12) below,

(iii) rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, or

(iv) section 41A below; and

(b) that person is judged by a Fitness to Practise Panel to have failed to comply with any requirement imposed on him as such a condition,

subsection (10) below applies.

(10) In such a case, the Panel may, if they think fit—

(a) except in a health case, direct that the person's name shall be erased from the register; or

(b) direct that the person's registration in the register shall be suspended during such period not exceeding twelve months as may be specified in the direction.

(11) Where a direction that a person's registration be subject to conditions has been given under—

(a) subsection (2), (5) or (8) above; or

(b) rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act,

subsection (12) below applies.

(12) In such a case, a Fitness to Practise Panel may, if they think fit—

(a) except in a health case, direct that the person's name shall be erased from the register;

(b) direct that the person's registration in the Register shall be suspended during such period not exceeding twelve months as may be specified in the direction;

(c) direct that the current period of conditional registration shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction; or

(d) revoke the direction, or revoke or vary any of the conditions imposed by the direction, for the remainder of the current period of conditional registration,

but the Panel shall not extend any period of conditional registration under this section for more than three years at a time.

Provisions supplementary to section 35D

35E.—(1) Where, under section 35D above, a Fitness to Practise Panel—

(a) give a direction that a person's name shall be erased from the register;

(b) give a direction for suspension;

(c) give a direction for conditional registration; or

(d) vary any of the conditions imposed by a direction for conditional registration,

the Registrar shall forthwith serve on the person concerned notification of the direction or variation and of his right to appeal against it under section 40 below.

(2) In subsection (1) above—

(a) references to a direction for suspension include a reference to a direction extending a period of suspension; and

(b) references to a direction for conditional registration include a reference to a direction extending a period of conditional registration.

(3) While a person's registration in the register is suspended by virtue of a direction under section 35D—

(a) he shall be treated as not being registered in the register notwithstanding that his name still appears in it, but

(b) sections 35C, 35CC and 35D above, and this section, shall continue to apply to him.

(4) In section 35D above, "health case" means any case in which a Fitness to Practise Panel has determined that—

(a) a person's fitness to practise is impaired by reason of a matter falling within paragraph (d) of subsection (2) of section 35C above, but

(b) the person's fitness to practise is not impaired by any matter falling within any other paragraph of that subsection.

Power to order immediate suspension etc. after a finding of impairment of fitness to practise

38.—(1) On giving a direction for erasure or a direction for suspension under section 35D(2), (10) or (12) above, or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, in respect of any person the Fitness to Practise Panel, if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of that person, may order that his registration in the register shall be suspended forthwith in accordance with this section.

(2) On giving a direction for conditional registration under section 35D(2) above, or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, in respect of any person the Fitness to Practise Panel, if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of that person, may order that his registration be made conditional forthwith in accordance with this section.

(3) Where, on the giving of a direction, an order under subsection (1) or (2) above is made in respect of a person, his registration in the register shall, subject to subsection (4) below, be suspended (that is to say, shall not have effect) or made conditional, as the case may be, from the time when the order is made until the time when—

(a) the direction takes effect in accordance with—

(i) paragraph 10 of Schedule 4 to this Act, or

(ii) rules made by virtue of paragraph 5A(3) of that Schedule; or

(b) an appeal against it under section 40 below or paragraph 5A(4) of that Schedule is (otherwise than by the dismissal of the appeal) determined.

(4) Where a Fitness to Practise Panel make an order under subsection (1) or (2) above, the Registrar shall forthwith serve a notification of the order on the person to whom it applies.

(5) If, when an order under subsection (1) or (2) above is made, the person to whom it applies is neither present nor represented at the proceedings, subsection (3) above shall have effect as if, for the reference to the time when the order is made, there were substituted a reference to the time of service of a notification of the order as determined for the purposes of paragraph 8 of Schedule 4 to this Act.

(6) Except as provided in subsection (7) below, while a person's registration in the register is suspended by virtue of subsection (1) above, he shall be treated as not being registered in the register notwithstanding that his name still appears in it.

(7) Notwithstanding subsection (6) above, sections 35C to 35E above shall continue to apply to a person whose registration in the register is suspended.

(8) The relevant court may terminate any suspension of a person's registration in the register imposed under subsection (1) above or any conditional registration imposed under subsection (2) above, and the decision of the court on any application under this subsection shall be final.

(9) In this section "the relevant court" has the same meaning as in section 40(5) below.

Fraud or error in relation to registration

39.—(1) If the General Council are satisfied that any entry in the register has been fraudulently procured or incorrectly made, they may direct that the entry shall be erased from the register.

(2) Where the General Council give a direction for the erasure of a person's name under this section, the Registrar shall forthwith serve on that person a notification of the direction and of his right to appeal against the decision in accordance with section 40 below.

Appeals

40.—(1) The following decisions are appealable decisions for the purposes of this section, that is to say—

(a) a decision of a Fitness to Practise Panel under section 35D above giving a direction for erasure, for suspension or for conditional registration or varying the conditions imposed by a direction for conditional registration;

(b) a decision of a Fitness to Practise Panel under section 41(9) below giving a direction that the right to make further applications under that section shall be suspended indefinitely; or

(c) a decision of the General Council under section 45(6) below giving a direction that the right to make further applications under that section shall be suspended indefinitely.

(2) A decision of the General Council under section 39 above giving a direction for erasure is also an appealable decision for the purposes of this section.

(3) In subsection (1) above—

(a) references to a direction for suspension include a reference to a direction extending a period of suspension; and

(b) references to a direction for conditional registration include a reference to a direction extending a period of conditional registration.

(4) A person in respect of whom an appealable decision falling within subsection (1) has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 35E(1) above, or section 41(10) or 45(7) below, appeal against the decision to the relevant court.

(5) In subsection (4) above, "the relevant court"—

(a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session;

(b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland; and

(c) in the case of any other person (including one appealing against a decision falling within subsection (1)(c) above), means the High Court of Justice in England and Wales.

(6) A person in respect of whom an appealable decision falling within subsection (2) above has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 39(2) above, appeal against the decision to a county court or, in Scotland, the sheriff in whose sheriffdom the address in the register is situated.

(7) On an appeal under this section from a Fitness to Practise Panel, the court may—

(a) dismiss the appeal;

(b) allow the appeal and quash the direction or variation appealed against;

(c) substitute for the direction or variation appealed against any other direction or variation which could have been given or made by a Fitness to Practise Panel; or

(d) remit the case to the Registrar for him to refer it to a Fitness to Practise Panel to dispose of the case in accordance with the directions of the court,

and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.

(8) On an appeal under this section from the General Council, the court (or the sheriff) may—

(a) dismiss the appeal;

(b) allow the appeal and quash the direction appealed against; or

(c) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),

and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.

(9) On an appeal under this section from a Fitness to Practise Panel, the General Council may appear as respondent; and for the purpose of enabling directions to be given as to the costs of any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.

Restoration of names to the register

41.—(1) Subject to subsections (2) and (6) below, where the name of a person has been erased from the register under section 35D above, a Fitness to Practise Panel may, if they think fit, direct that his name be restored to the register.

(2) No application for the restoration of a name to the register under this section shall be made to a Fitness to Practise Panel—

(a) before the expiration of five years from the date of erasure; or

(b) in any period of twelve months in which an application for the restoration of his name has already been made by or on behalf of the person whose name has been erased.

(3) An application under this section shall be made to the Registrar who shall refer the application to a Fitness to Practise Panel.

(4) In the case of a person who was provisionally registered under section 15, 15A or 21 above before his name was erased, a direction under subsection (1) above shall be a direction that his name be restored by way of provisional registration under section 15, 15A or 21 above, as the case requires.

(5) The requirements of Part II or Part III of this Act as to the experience required for registration as a fully registered medical practitioner shall not apply to registration in pursuance of a direction under subsection (1) above.

(6) Before determining whether to give a direction under subsection (1) above, a Fitness to Practise Panel shall require an applicant for restoration to provide such evidence as they direct as to his fitness to practise; and they shall not give such a direction if that evidence does not satisfy them.

(7) A Fitness to Practise Panel shall not give a direction under subsection (1) above unless at the same time in accordance with regulations made by the General Council under this subsection, they direct the Registrar to restore the practitioner's licence to practise.

(8) Subsections (3) to (5) of section 29J above applies to regulations made under subsection (7) above as they apply in relation to regulations made under section 29A above.

(9) Where, during the same period of erasure, a second or subsequent application for the restoration of a name to the register, made by or on behalf of the person whose name has been erased, is unsuccessful, a Fitness to Practise Panel may direct that his right to make any further such applications shall be suspended indefinitely.

(10) Where a Fitness to Practise Panel give a direction under subsection (9) above, the Registrar shall without delay serve on the person in respect of whom it has been made a notification of the direction and of his right to appeal against it in accordance with section 40 above.

(11) Any person in respect of whom a direction has been given under subsection (9) above may, after the expiration of three years from the date on which the direction was given, apply to the Registrar for that direction to be reviewed by a Fitness to Practise Panel and, thereafter, may make further applications for review; but no such application may be made before the expiration of three years from the date of the most recent review decision.

Interim Orders

41A.—(1) Where an Interim Orders Panel or a Fitness to Practise Panel are satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of a fully registered person, for the registration of that person to be suspended or to be made subject to conditions, the Panel may make an order—

(a) that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding eighteen months as may be specified in the order (an "interim suspension order"); or

(b) that his registration shall be conditional on his compliance, during such period not exceeding eighteen months as may be specified in the order, with such requirements so specified as the Panel think fit to impose (an "order for interim conditional registration").

(2) Subject to subsection (9) below, where an Interim Orders Panel or a Fitness to Practise Panel have made an order under subsection (1) above, an Interim Orders Panel or a Fitness to Practise Panel—

(a) shall review it within the period of six months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it—

(i) before the end of the period of six months beginning on the date of the decision of the immediately preceding review, or

(ii) if after the end of the period of three months beginning on the date of the decision of the immediately preceding review the person concerned requests an earlier review, as soon as practicable after that request; and

(b) may review it where new evidence relevant to the order has become available after the making of the order.

(3) Where an interim suspension order or an order for interim conditional registration has been made in relation to any person under any provision of this section (including this subsection), an Interim Orders Panel or a Fitness to Practise Panel may, subject to subsection (4) below—

(a) revoke the order or revoke any condition imposed by the order;

(b) vary any condition imposed by the order;

(c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former; or

(d) if satisfied that to do so is necessary for the protection of members of the public, or is otherwise in the public interest, or is in the interests of the person concerned, replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former.

(4) No order under subsection (1) or (3)(b) to (d) above shall be made by any Panel in respect of any person unless he has been afforded an opportunity of appearing before the Panel and being heard on the question of whether such an order should be made in his case; and for the purposes of this subsection a person may be represented before the Panel by counsel or a solicitor, or (if rules made under paragraph 1 of Schedule 4 to this Act so provide and he so elects) by a person of such other description as may be specified in the rules.

(5) If an order is made under any provision of this section, the Registrar shall without delay serve a notification of the order on the person to whose registration it relates.

(6) The General Council may apply to the relevant court for an order made by an Interim Orders Panel or a Fitness to Practise Panel under subsection (1) or (3) above to be extended, and may apply again for further extensions.

(7) On such an application the relevant court may extend (or further extend) for up to 12 months the period for which the order has effect.

(8) Any reference in this section to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as so extended.

(9) For the purposes of subsection (2) above the first review after the relevant court's extension of an order made by an Interim Orders Panel or a Fitness to Practise Panel or after a replacement order made by an Interim Orders Panel or a Fitness to Practise Panel under subsection (3)(c) or (d) above shall take place—

(a) if the order (or the order which has been replaced) had not been reviewed at all under subsection (2), within the period of six months beginning on the date on which the relevant

court ordered the extension or on which a replacement order under subsection (3)(c) or (d) was made; and

(b) if it had been reviewed under the provision, within the period of three months beginning on that date.

(10) Where an order has effect under any provision of this section, the relevant court may—

(a) in the case of an interim suspension order, terminate the suspension;

(b) in the case of an order for interim conditional registration, revoke or vary any condition imposed by the order;

(c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

and the decision of the relevant court under any application under this subsection shall be final.

(11) Except as provided in subsection (12) below, while a person's registration in the register is suspended by virtue of an interim suspension order under this section he shall be treated as not being registered in the register notwithstanding that his name still appears in the register.

(12) Notwithstanding subsection (11) above, sections 35C to 35E above shall continue to apply to a person whose registration in the register is suspended.

(13) This section applies to a provisionally registered person and to a person registered with limited registration whether or not the circumstances are such that he falls within the meaning in this Act of the expression "fully registered person".

(14) In this section "the relevant court" has the same meaning as in section 40(5) above.

Effect of directions or orders on a licence to practise

41C.—(1) Where under this Part or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act—

(a) a direction is given that a medical practitioner's name be erased from the register; or

(b) an order is made or a direction is given that his registration as a medical practitioner be suspended,

the practitioner's licence to practise shall be withdrawn with effect from the date when the direction or order has effect.

(2) Where a medical practitioner's registration has been suspended and—

(a) that suspension expires without being further extended;

(b) the suspension is brought to an end without any direction for ereasure or further suspension being made,

the practitioner's licence to practise shall be restored with effect from the date on which the suspension comes to an end.

Proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels

43. Schedule 4 to this Act (which contains supplementary provisions about proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels) shall have effect.

Effect of disqualification in another member State on registration in the United Kingdom

44.—(1) A person who is subject to a disqualifying decision in an EEA State in which he is or has been established in medical practice shall not be entitled to be registered by virtue of section 3(1)(b) above for so long as the decision remains in force in relation to him.

(2) A disqualifying decision in respect of a person is a decision, made by responsible authorities of the EEA State in which he was established in medical practice or in which he acquired a primary United Kingdom or primary European qualification, and—

(a) expressed to be made on the grounds that he has committed a criminal offence or on grounds related to his professional conduct, professional performance or physical or mental health; and

(b) having in that State the effect either that he is no longer registered or otherwise officially recognised as a medical practitioner, or that he is prohibited from practising medicine there.

(3) If a person has been registered by virtue of section 3(1)(b) above and it is subsequently shown to the satisfaction of the Registrar that he was subject to a disqualifying decision in force at the time of registration, and that the decision remains in force, the Registrar shall remove the person's name from the register.

(4) A decision under—

(a) subsection (1) above not to register a person; or

(b) subsection (3) above to remove a person's name from the register,

is an appealable registration decision for the purposes of Schedule 3A to this Act.

(5) If a person has been registered as a fully registered medical practitioner by virtue of section 3(1)(b) above at a time when a disqualifying decision was in force in respect of him, and he has been so registered for a period of not less than one month throughout which the decision had effect—

(a) a Fitness to Practise Panel may direct that his registration be suspended for such period, not exceeding the length of the first-mentioned period, as the Panel think fit, and the period of suspension shall begin on a date to be specified in the Panel's direction; and

(b) sections 35E(1) and (3) and 40 and paragraphs 1, 2, 8, 9, 10, 12 and 13 of Schedule 4 to this Act shall have effect, with any necessary modifications, in relation to suspension under this subsection.

(6) Where on or after the date on which a person was registered by virtue of section 3(1)(b) above a disqualifying decision relating to him comes into force, this Part of this Act shall apply, with any necessary modifications, as if it had been found that he had been convicted of the criminal offence referred to in the disqualifying decision, or that his professional conduct, professional performance or physical or mental health had been such as is imputed to him by that decision, as the case may be.

(7) Subsection (1) of section 18 above shall not apply to a person, and that person shall not be registered as a visiting EEA practitioner, at any time when he is subject to a disqualifying decision imposed by a member State or its competent authority (within the meaning of that section).

Effect of disqualification or conviction on registration

44A.—(1) Without prejudice to regulations made under section 31 (power to make regulations with respect to the register), the Registrar may, notwithstanding anything in this Act, refuse to register any person under any section of this Act (other than sections 3(1)(b) or 18 above) who—

(a) has, in the British Islands, been convicted of, or cautioned for, a criminal offence or convicted elsewhere of an offence which, if committed in England and Wales, would constitute a criminal offence; or

(b) has been the subject of a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of that profession is impaired, or a determination by a regulatory body (within the meaning of section 35C(9) above) elsewhere to the same effect.

(2) If a person has been registered by virtue of any provision of this Act and it is subsequently shown to the satisfaction of the Registrar that—

(a) he is a person to whom paragraph (a) or (b) of subsection (1) above applies; and

(b) he had not informed the Registrar of that fact at the time of registration,

the Registrar may remove that person's name from the register.

(3) A decision under—

(a) subsection (1) above not to register a person; or

(b) subsection (2) above to remove a person's name from the register,

is an appealable registration decision for the purposes of Schedule 3A to this Act.

(4) If a person has been registered by virtue of any section other than section 3(1)(b) or 18 above at a time when a determination of a kind referred to in subsection (1)(b) above was in force in respect of him, and he has been so registered for a period of not less than one month throughout which the determination had effect—

(a) a Fitness to Practice Panel may direct that his registration be suspended for such period, not exceeding the length of the first mentioned period, as the Panel think fit, and the period of suspension shall begin on a date to be specified in the Panel's direction; and

(b) sections 35E(1) and (3) and 40 and paragraphs 1, 2, 8, 9, 10, 12 and 13 of Schedule 4 to this Act shall have effect, with any necessary modifications, in relation to suspension under this subsection.

(5) The General Council may by regulations make provision about the information to be provided to the Registrar by a person seeking registration for the purposes of this section.

(6) The Registrar may refuse to register any person who fails to comply with regulations made under subsection (5) above.

(7) Regulations under subsection (5) above shall not have effect until approved by order of the Privy Council.

(8) In this section "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and any provision of, or any instrument made under, Northern Ireland legislation.

Disciplinary provisions affecting practitioners who render services while visiting the United Kingdom

45.—(1) If a national of an EEA State who has medical qualifications entitling him to registration under section 3 above but is not so registered and who renders medical services while visiting the United Kingdom (whether or not registered as a visiting EEA practitioner)—

(a) is found by a Fitness to Practise Panel to have been convicted of a criminal offence in any EEA State where he was practising medicine; or

(b) is subject to a finding that his fitness to practise is impaired,

the Panel may, if they think fit, impose on him a prohibition in respect of the rendering of medical services in the United Kingdom in the future.

(2) A prohibition imposed under this section shall either relate to a period specified by a Fitness to Practise Panel or be expressed to continue for an indefinite period.

(3) A person may apply to the General Council for termination of a prohibition imposed on him under this section and the Council may, on any such application, terminate the prohibition or reduce the period of it; but no application may be made under this subsection—

(a) earlier than five years from the date on which the prohibition was imposed; or

(b) in the period of twelve months following a decision made on an earlier application.

(4) Section 18(1) above does not apply to a person, and that person shall not be registered as a visiting EEA practitioner, at a time when he is subject to a prohibition imposed by a Fitness to Practise Panel under this section.

(5) Before determining whether to terminate a prohibition under subsection (3) above, the General Council shall require the person applying for its termination to provide such evidence as they direct as to one or more of his good character, professional competence and health; and they shall not terminate the prohibition if that evidence does not satisfy them.

(6) Where, during the same period of prohibition, a second or subsequent application for termination of the prohibition, made by or on behalf of a person on whom the prohibition has been imposed, is unsuccessful, the General Council may direct that his right to make any further such applications shall be suspended indefinitely.

(7) Where the General Council give a direction under subsection (6) above, the Registrar shall without delay serve on the person in respect of whom it has been made a notification of the direction and of his right to appeal against it in accordance with section 40 above.

(8) Any person in respect of whom a direction has been given under subsection (6) above may, after the expiration of three years from the date on which the direction was made, apply to the General Council for that direction to be reviewed by the General Council and, thereafter, may make further applications for review; but no such application may be made before the expiration of three years from the date of the most recent review decision.".

Substitution of Schedule 4

14. For Schedule 4 (proceedings before Professional Conduct, Health and Preliminary Proceedings Committees) substitute—

"SCHEDULE 4

Section 43

PROCEEDINGS BEFORE THE INVESTIGATION COMMITTEE, INTERIM ORDERS PANELS AND FITNESS TO PRACTISE PANELS

Procedure of and evidence before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels

1.—(1) Subject to the provisions of this paragraph, the General Council shall make rules for the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels with respect to—

(a) the reference of cases to the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel; and

(b) the procedure to be followed and rules of evidence to be observed in proceedings before that Committee or such a Panel.

(2) Rules made under this paragraph in connection with the consideration by the Investigation Committee of whether to warn a person regarding his future conduct or performance under section 35C(6) above shall include provision—

(a) securing that notice shall be given to this effect to the person concerned;

(b) securing that the person concerned shall be entitled to make representations in writing to the Committee;

(c) securing that if the Committee determines that there should be an oral hearing, the person concerned shall, if he so requires, be entitled to be heard by the Committee;

(d) enabling the person concerned to be represented before the Committee by counsel or a solicitor, or (if the rules so provide and he so elects) by a person of such other description as may be specified in the rules; and

(e) securing that notice be served on the person concerned of any decision taken in relation to him by the Committee.

(3) Rules made under this paragraph in connection with the consideration by an Interim Orders Panel or a Fitness to Practise Panel of the making of an interim suspension order or an order for interim conditional registration under section 41A above, or in connection with the review of such an interim order, shall include provision—

(a) securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the person to whom the proceedings relate;

(b) securing that a person in relation to whom an order has been made shall, if he so requires, be entitled to be heard by the Panel on each occasion on which they review the order;

(c) enabling the person in relation to whom the order has been made to be represented before the Panel by counsel or a solicitor, or (if the rules so provide and he so elects) by a person of such other description as may be specified in the rules;

(d) for service on the person to whom the proceedings relate of notice of any decision taken in relation to him by the Panel; and

(e) determining when proceedings before the Panel are to be held in public and when in private (including provision securing that they are to be held in public if the person to whom the proceedings relate so requests).

(4) Rules made under this paragraph in connection with any other proceedings before a Fitness to Practise Panel shall include provision—

(a) securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the person to whose registration the proceedings relate;

(b) securing that any party to the proceedings shall, if he so requires, be entitled to be heard by a Panel;

(c) enabling any party to the proceedings to be represented before the Panel by counsel or a solicitor, or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;

(d) in relation to conduct, conviction or determination proceedings, for proceedings before a Panel to be held in public unless and to the extent that the rules provide otherwise; and

(e) in relation to health or performance proceedings, requiring proceedings before a Panel to be held in public if the person concerned so requests unless and to the extent that the rules provide otherwise.

(5) Rules made under this paragraph shall specify the relevant date for the purposes of sections 35A and 35B of this Act.

(6) Before making rules under this paragraph the General Council shall consult such bodies of persons representing medical practitioners, or medical practitioners of any description, as appear to the General Council requisite to be consulted.

(7) Rules under this paragraph shall not come into force until approved by order of the Privy Council.

(8) The Privy Council may approve such rules—

(a) as submitted to them; or

(b) subject to such modifications as appear to them to be requisite.

(9) Where the Privy Council propose to approve rules under this paragraph subject to modifications, they shall—

(a) notify the General Council of the modifications they propose to make; and

(b) consider any observations which the General Council may make on the modifications.

(10) In this paragraph—

"conduct proceedings" means proceedings involving an allegation of a kind mentioned in section 35C(2)(a) above;

"performance proceedings" means proceedings involving an allegation of a kind mentioned in section 35C(2)(b) above;

"conviction proceedings" means proceedings involving an allegation of a kind mentioned in section 35C(2)(c) above;

"health proceedings" means proceedings involving an allegation of a kind mentioned in section 35C(2)(d) above; and

"determination proceedings" means proceedings involving an allegation of a kind mentioned in section 35C(2)(e) above.

2.—(1) For the purpose of proceedings in England or Wales or in Northern Ireland before—

(a) the Investigation Committee;

(b) an Interim Orders Panel; or

(c) a Fitness to Practise Panel,

the Committee or Panel may administer oaths, and any party to the proceedings may issue a writ of subpoena ad testificandum or duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(2) Section 36 of the Supreme Court Act 1981 or section 67 of the Judicature (Northern Ireland) Act 1978 (which provide a special procedure for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to proceedings before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel in England and Wales or, as the case may be, in Northern Ireland as those provisions apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.

(3) For the purpose of proceedings before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel in Scotland, the Committee or Panel may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court—

(a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Committee or Panel and for the issue of letters of second diligence against any witness or haver failing to appear after due citation;

(b) to grant warrant for the recovery of documents; and

(c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

3. Where—

(a) several sittings of the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel or the General Council are required to enable the Committee, a Panel or the Council to dispose of a case; or

(b) on an appeal to the relevant court under section 40 of this Act, the case is remitted to the Registrar for him to refer the case to a Fitness to Practise Panel or to the General Council for the Panel or the Council to dispose of the case in accordance with directions given by the court,

the validity of the proceedings on the case before the Committee, Panel or Council, as the case may be, shall not be called into question by reason only that members of the Committee, Panel or Council who were present at a former meeting were not present at a later meeting of the Committee, Panel or Council or that members present at a later meeting were not present at a former meeting of the Committee, Panel or Council, as the case may be.

Reference and transfer of cases to the Investigation Committee

3A.—(1) Where in the course of any proceedings before a Fitness to Practise Panel, the Panel are of the opinion that a matter arises which ought to be investigated by the Investigation Committee or considered by another Fitness to Practise Panel—

(a) that Panel may give a direction to that effect to the Registrar; and

(b) that matter shall be referred by the Registrar to that Committee, or another Fitness to Practise Panel.

(2) Nothing in sub-paragraph (1) above shall prevent that Fitness to Practise Panel from considering that matter itself, whether or not it has reached a decision in the proceedings.

Professional Performance Assessments

5A.—(1) The General Council may make rules—

(a) authorising the giving of directions by any of—

(i) the Investigation Committee,

(ii) a Fitness to Practise Panel,

(iii) such other persons as may be specified in the rules,

requiring an assessment of the standard of a registered person's professional performance to be carried out;

(b) specifying circumstances in which such an assessment may be carried out otherwise than in accordance with a direction.

(2) An assessment carried out by virtue of this paragraph shall be carried out by an Assessment Team in accordance with rules under this paragraph; and the rules shall, in particular, provide—

(a) for the constitution and proceedings of Assessment Teams;

(b) for the procedures to be followed by such Teams in carrying out assessments; and

(c) for the procedures to be followed following the making of a report by an Assessment Team.

(2A) An assessment of the standard of a registered person's professional performance may include an assessment of his professional performance at any time prior to the assessment and may include an assessment of the standard of his professional performance at the time of the assessment.

(3) Rules under this paragraph may authorise a Fitness to Practise Panel to make directions of a kind which may be made under section 35D of this Act, for the suspension of, or the attachment of conditions to a person's registration, where the person fails to comply with reasonable requirements imposed by an Assessment Team for the purposes of carrying out an assessment of the standard of his professional performance in accordance with a direction made under rules under this paragraph.

(3A) Rules under this paragraph may provide for the Investigation Committee to give a direction to the Registrar that a case be referred, or for the Registrar to refer a case, to a Fitness to Practise Panel for the purposes of that Panel making a direction under paragraph (3) above.

(5) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this Act) from any direction of a Fitness to Practise Panel given by virtue of sub-paragraph (3) above, and on an appeal under this sub-paragraph the relevant court may—

(a) quash the direction;

(b) substitute for the direction any other direction which the Panel could have made; or

(c) remit the case to the Registrar for him to refer it to a Fitness to Practise Panel to be disposed of in accordance with the court's directions,

and the decision of the court on any appeal under this sub-paragraph shall be final.

(6) An Assessment Team, for the purposes of carrying out an assessment of the standard of a person's professional performance—

(a) may require the production of, inspect and take copies of any records (in whatever form they are held) arising out of or relating to the person's professional practice; and

(b) where such records are kept otherwise than in legible form, may require a copy of them to be given to the Team in legible form.

(7) A person who, without reasonable excuse, obstructs an Assessment Team in the execution of their powers under sub-paragraph (6) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Nothing in this paragraph shall require or permit any disclosure of information which is prohibited by or under any other enactment; but where information is held in a form in which the prohibition operates by reason of the fact that the information is capable of identifying an individual, an Assessment Team may, in exercising their powers under sub-paragraph (6) above, require that the information be put into a form in which it is not capable of identifying an individual.

(8A) In determining for the purposes of sub-paragraph (8) above whether a disclosure is not prohibited, by reason of being a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of section 35(1) of that Act, it shall be assumed that the disclosure is required under this paragraph.

(9) Sub-paragraphs (6) and (7) of paragraph 1 above shall apply in relation to rules made under this paragraph as they apply in relation to rules under that paragraph.

5B.—(1) A justice of the peace (including, in Scotland, a sheriff) may issue a warrant under this paragraph if satisfied by the evidence on oath of at least two members of an Assessment Team that there are reasonable grounds for suspecting that the team will require a warrant for the purposes of carrying out an assessment required by virtue of rules made under paragraph 5A above.

(2) A warrant under this paragraph shall authorise one or more members of the Assessment Team (who must, if so required, produce documents identifying themselves) together with any constables—

(a) to enter any building specified in the warrant, but not a dwelling-house, using such force as is reasonably necessary for the purpose; and

(b) to search the premises for the purposes of the exercise of the powers under paragraph 5A(6) above.

(3) A warrant under this paragraph shall continue in force until the end of the period of 21 days beginning with the day on which it is issued.

(4) A person who intentionally obstructs the exercise of any rights conferred by a warrant issued under this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Proceedings for erasure of entries fraudulently or incorrectly made

6.—(1) The General Council shall make rules with respect to the discharge by the Council of their functions under section 39 of this Act.

(2) If the Council delegate their functions under that section to a Fitness to Practise Panel or other committee, rules shall make provision with respect to the discharge of those functions by the Panel or committee.

(3) Sub-paragraph (6) and (7) of paragraph 1 above shall apply in relation to rules made under this paragraph as they apply in relation to rules under that paragraph.

Legal assessors

7.—(1) For the purposes of advising—

(a) the Investigation Committee where it is considering giving a warning to a person;

(b) an Interim Orders Panel; or

(c) a Fitness to Practise Panel,

on questions of law arising in proceedings before them, there shall in all such proceedings be an assessor to the Panel who shall be appointed by the General Council and shall be—

(i) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990,

(ii) an advocate or solicitor in Scotland of at least 10 years' standing, or

(iii) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.

(2) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings.

(3) The Lord Chancellor or, in relation to proceedings in Scotland, the Secretary of State may make rules as to the functions of assessors appointed under this paragraph, including without prejudice to the generality of the powers to make such rules, the function of advising on the drafting of decisions.

(4) Rules made under this paragraph in connection with proceedings before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel may in particular contain such provisions as appear to the Lord Chancellor or the Secretary of State expedient for—

(a) securing that where an assessor advises the Committee or a Panel on any question of law as to evidence, procedure or any other matter specified in the rules, he shall either—

(i) so advise in the presence of every party, or person representing a party, to the proceedings who appears at the proceedings, or

(ii) inform every such party or person of the advice that he has tendered, if the advice is tendered after the Committee or the Panel have begun their deliberations;

(b) securing that every such party or person shall be informed if in any case the Committee or the Panel do not accept the advice of the assessor on any such question,

and may also contain such incidental and supplementary provisions as appear to the Lord Chancellor or the Secretary of State expedient.

(5) The General Council may pay to persons appointed to act as assessors such remuneration as the Council may determine.

(6) The power to make rules under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Service of notifications of decisions

8.—(1) This paragraph applies to any notice required to be served on a person under section 35C(5), (7) or (8), 35E(1), 39(2), 41(10), 41A(5) or 45(7) of this Act.

(2) Any such notice may be so served—

(a) by delivering it to him;

(b) by leaving it at his proper address;

(c) by sending it by a registered post service; or

(d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.

(3) For the purposes of this section and of section 7 of the Interpretation Act 1978 in its application to this section, a person's proper address shall be—

(a) his address in the register; or

(b) if the conditions in sub-paragraph (4) below are satisfied, his last known address.

(4) The conditions are that—

(a) the person's last known address differs from his address in the register; and

(b) it appears to the Registrar that a letter sent to the person at his last known address is more likely to reach him.

(5) For the purposes of this paragraph—

(a) the serving of a notice effected by sending it by post shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and

(b) so much of section 7 of the Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice sent by post.

Extension of time for appealing

9. Where—

(a) any notice required by section 35E(1) or 39(2) of this Act to be served on a person by the Registrar is served on him by sending it by post; and

(b) the Registrar is satisfied, on an application of that person, that the person did not receive the notice within 14 days beginning with the day of the giving of the decision to which the notification relates,

the Registrar may, if he thinks fit, by authorisation in writing extend the time within which an appeal under section 40 of this Act may be brought against the decision.

Taking effect of directions for erasure, suspension or conditional registration and of variations of conditions of registration

10.—(1) A direction for erasure, for suspension or for conditional registration given by a Fitness to Practise Panel under section 35D of this Act, a variation by a Fitness to Practise Panel under section 35D(12) or a direction for erasure given by the General Council under section 39 of this Act shall take effect—

(a) where no appeal under section 40 is brought against the direction or variation within the time specified in that section, on the expiration of that time; or

(b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, on the withdrawal or dismissal of the appeal;

(c) where such an appeal is so brought and is not withdrawn or dismissed for want of prosecution, if and when the appeal is dismissed.

(2) Where the time for appealing against a direction or variation is extended by an authorisation under paragraph 9 above—

(a) sub-paragraph (1) shall apply to the direction as if the reference in paragraph (a) to the time specified in section 40 of this Act were a reference to that time as so extended; and

(b) if the authorisation is given after the expiration of the time specified in section 40 of this Act, the direction or variation shall be deemed not to have taken effect on the expiration of that time,

and any reference in this Act to the time when such a direction takes effect in accordance with this paragraph shall be construed accordingly.

(3) Any reference in this paragraph to a direction for suspension or for conditional registration includes a reference to a direction extending a period of suspension or conditional registration.

11.—(1) If, while a person's registration is suspended under section 35D(2) of this Act, a direction is given under subsection (5) or (8)(a) or (c) of that section, the suspension of his registration shall continue to have effect throughout any period which may intervene between the time when, but for this sub-paragraph, the suspension of his registration would end and the time when the direction takes effect in accordance with paragraph 10 above or an appeal against it under section 40 of this Act is (otherwise than by the dismissal of the appeal) determined.

(2) If, on the determination of an appeal under section 40 of this Act, a direction extending a current period of suspension for a further period takes effect after the time when, but for sub-paragraph (1) above, the current period of suspension would have ended, that further period shall be treated as having started to run from that time.

(3) If, while a person's registration is subject to conditions imposed under section 35D(2) of this Act, a direction is given under subsection (10) or (12) of that section the conditions attached to his registration shall continue to attach to it throughout any period which may intervene between the time when, but for this sub-paragraph, his registration would cease to be conditional and the time when the direction takes effect in accordance with paragraph 10 above or an appeal against it under section 40 of this Act is (otherwise than by the dismissal of the appeal) determined.

(4) If, on the determination of an appeal under section 40 of this Act, a direction extending a current period of conditional registration for a further period takes effect after the time when, but for sub-paragraph (3) above, the current period of conditional registration would have ended, that further period shall be treated as having started to run from that time.

Recording of directions for suspension or conditional registration

12. Where a direction under section 35D of this Act or under rules made by virtue of paragraph 5A(3) of this Schedule for suspension or for conditional registration takes effect in relation to any person the Registrar shall record in the register the fact that that person's registration is suspended or subject to conditions.

Meaning of "party"

13. In this Schedule "party", in relation to proceedings before the Investigations Committee, an Interim Orders Panel or Fitness to Practise Panel means any person to whose registration the proceedings relate, or the Solicitor to the General Council.".

PART VII

MISCELLANEOUS

Miscellaneous Amendments

15.—(1) In section 10(1) (experience required for full registration by virtue of primary United Kingdom qualifications) and in paragraph 2(1)(a) of Schedule 3 (registration: supplementary provisions) for "section 3(a)" or "paragraph (a) of section 3" as the case may be substitute "section 3(1)(a)".

(2) For section 47(3) (appointments not to be held except by fully registered practitioners: effect of suspension) substitute—

"(3) None of the suspension events mentioned in subsection (4) below shall terminate any appointment such as is mentioned in subsection (1) above, but the person suspended shall not perform the duties of such an appointment during the suspension.

(4) The suspension events are—

(a) the suspension of registration of a person by a Fitness to Practise Panel—

(i) following a finding of impairment of fitness to practise by reason of deficient professional performance or adverse physical or mental health under section 35D above, or

(ii) under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act;

(b) an order for immediate suspension by a Fitness to Practise Panel under section 38(1) above; or

(c) an interim suspension order by an Interim Orders Panel or a Fitness to Practise Panel under section 41A above (or such an order as extended under that section).".

(3) In section 50(1)(b) (default powers of Privy Council)—

(a) for "13" substitute "13 or"; and

(b) omit "or 34(2)".

(4) After section 52 insert—

"Annual reports

52A.—(1) The General Council shall publish at least once in each calender year a statistical report which indicates the efficiency and effectiveness of the arrangements the Council has put in place to protect the public from persons whose fitness to practise is impaired, together with the General Council's observations on the report.

(2) The General Council—

(a) within such time as may be specified by the Privy Council, shall submit a report to it on the General Council's exercise of its functions during the period specified by the Privy Council; and

(b) thereafter shall submit such a report once in each year in respect of the period since its last such report.

(3) The Privy Council shall lay before each House of Parliament a copy of the report submitted by the Council under subsection (2) above.".

(5) In section 53(2) (proof of certain instruments) for paragraph (c) substitute—

"(c) an order of a Fitness to Practise Panel under section 38 above; and".

(6) In section 55(1) (interpretation)—

(a) omit the definition of "recognised overseas qualification";

(b) in the definition of "fully registered person" for "section 3, 19 or 27" substitute "section 3, 19, 21A, 25 or 27";

(c) insert each of the following definitions at the appropriate place—

""exempt person" has the meaning given in section 19(2) above;";

""impaired", in relation to a person's fitness to practise has the meaning given in section 35C(2) above;";

""licence to practise" has the meaning given in section 29A above;";

""professional performance" includes a medical practitioner's professional competence;";

""revalidation" has the meaning given in section 29A above;"; and

""the statutory committees" has the meaning given in section 1(3A) above;".

(7) In Schedule 1 (the General Medical Council and its committees and branch councils)—

(a) after paragraph 9 insert—

"**9A.** In exercising their functions, the General Council shall co-operate wherever appropriate and reasonably practicable with public authorities or other bodies or persons concerned with—

(a) the employment (whether or not under a contract of service) of registered medical practitioners;

(b) the education of medical practitioners, prospective medical practitioners or other health care professionals;

(c) the regulation of other health or social care professions; or

(d) the regulation of health services.

9B.—(1) For the purposes of ensuring that registered medical practitioners and the public are informed about the General Council and the exercise by them of their functions, the Council shall publish or provide in such manner as they think fit information about the Council and the exercise of their functions.

(2) Nothing in sub-paragraph (1) above authorises or requires the publication or provision of information if the publication or provision of that information is—

(a) prohibited by any enactment; or

(b) would constitute or be punishable as a contempt of court.

(3) In sub-paragraph (2) above "enactment" includes—

(a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and

(b) any provision of, or any instrument made under, Northern Ireland legislation.",

and the italic heading immediately preceding paragraph 9 accordingly becomes "*Incidental powers and duties*";

(b) in paragraph 16—

(i) in sub-paragraph (2) at the beginning omit "The President and",

(ii) in sub-paragraph (3), after "any reference in this Act to the Registrar," insert "or in a direction or delegation to him under sub-paragraph (4) below,", and

(iii) after sub-paragraph (3) insert—

"(4) Subject to paragraph 6 of Schedule 4 to this Act, the Registrar shall, in addition to the functions specifically mentioned in this Act, have such other functions as the General Council may think fit to direct him to perform or delegate to him (whether or not in rules or standing orders).";

(c) for paragraph 17 substitute—

"**17.** There shall be paid to the members of the General Council such remuneration and such travelling, subsistence or other expenses as the Council may allow, including payments for duties undertaken as trustees of the Council.";

(d) in paragraph 26 for sub-paragraph (2) substitute—

"(2) The branch council for each area shall be constituted as provided by the General Council.

(2A) Some or all members of a branch council may be persons who are not members of the General Council."; and

(e) for paragraph 29 substitute—

"**29.** There shall be paid to the members of the branch councils such remuneration and such travelling, subsistence or other expenses as the General Council may allow.".

Consequential, transitional, transitory and saving provisions etc.

16.—(1) The consequential amendments and revocations contained in Schedule 1 to this Order shall have effect.

(2) The transitional, transitory and saving provisions in Schedule 2 to this Order shall have effect.

(3) The Privy Council may by Order make such further transitional, transitory or saving provisions as it considers appropriate.

(4) The power to make an Order under paragraph (3) above is exercisable by statutory instrument and a statutory instrument containing such an Order shall be subject to annulment in pursuance of a resolution of either House of Parliament and for the purposes of section 1 of the Statutory Instruments Act 1946(**a**) this provision shall have effect as if contained in an Act of Parliament.

(5) The power vested in the Privy Council to make an Order under paragraph (3) above may be exercised by any two or more of the lords and others of the Council.

Clerk of the Privy Council

(**a**) 9 & 10 Geo 6 c. 36 as amended by the Government of Wales Act 1998 (c. 38).

SCHEDULE 1 Article 16(1)

CONSEQUENTIAL AMENDMENTS

PART I

PRIMARY LEGISLATION

Prison Act 1952 (c.52)

1. In section 7 of the Prison Act 1952(a) (prison officers), in subsection (4), for "duly registered under the Medical Acts" substitute "a registered medical practitioner".

Human Tissue Act 1961 (c.54)

2. In section 2 of the Human Tissue Act 1961(b) (post-mortem examinations) after "fully registered medical practitioner" insert "who holds a licence to practise".

Human Tissue Act (Northern Ireland) 1962 (c.19 (N.I.))

3. In section 2(2) of the Human Tissue Act (Northern Ireland) 1962 (post-mortem examinations), after "registered medical practitioner" insert "who holds a licence to practise".

Children and Young Persons Act 1963 (c.37)

4. In section 26 of the Children and Young Persons Act 1963(c) (medical evidence by certificate), after "a fully registered medical practitioner" insert "who holds a licence to practise".

Criminal Procedure (Insanity) Act 1964 (c.84)

5. In section 8(2) of the Criminal Procedure (Insanity) (d) Act 1964 (interpretation), in the definition of "registered medical practitioner", after "Medical Act 1983" insert "who holds a licence to practise".

Criminal Appeal Act 1968 (c.19)

6. In section 51(1) of the Criminal Appeal Act 1968(e) (interpretation), in the definition of "registered medical practitioner" after "Medical Act 1983" insert "who holds a licence to practise".

Health and Safety at Work etc. Act 1974 (c.37)

7.—(1) In section 56 of the Health and Safety at Work etc. Act 1974 (functions of authority responsible for maintaining the service), at the end of subsection (2) add "who holds a licence to practise".

(2) In section 60 of the Health and Safety at Work etc Act 1974(f) (supplementary) in subsection (1), after "fully registered medical practitioner" insert "who holds a licence to practise".

(a) Section 7 was previously amended by the Sex Discrimination Act 1975 (c.65), section 18(2); and modified by the Criminal Justice Act 1991 (c.53), section 87.
(b) Section 2 was previously amended by the Anatomy Act 1984 (c.14), section 13.
(c) Section 26 was previously amended by the Criminal Justice Act 1991 (c.53), section 100 and Schedule 11, paragraph 40.
(d) Section 8 was previously amended by: the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c.25), sections 7, 8(1)(c) and (3), Schedule 3, paragraph 1 and Schedule 4; and the Mental Health Act 1983 (c.20), section 148(1) and (2), and Schedule 4, paragraph 18(b).
(e) Section 51 was previously amended by: the Courts Act 1971 (c.23), section 56(1) and Schedule 8, paragraph 57(3) of Part II; the Immigration Act 1971 (c.77), section 34(1) and 35(1) and Schedule 6; the Supreme Court Act 1981 (c.54), section 152(4) and Schedule 7; the Mental Health Act 1983 (c.20), section 148 and Schedule 4, paragraph 23; the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c.25), section 7 and Schedule 3, paragraph 5; and S.I. 2000/90.
(f) Section 60 was previously amended by: the Health Authorities Act 1995 (c.17), section 2(1) and Schedule 1, paragraph 99; and the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 2(5) and Schedule 2, paragraph 41 of Part 2.

National Health Service Act 1977 (c.49)

8. For section 29(8) and (9) of the National Health Service Act 1977(**a**) (arrangements and regulations for general medical services) substitute—

"(8) Where the registration of a medical practitioner in the register of practitioners is suspended—

(a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of his physical or mental health;

(b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or

(c) by an interim order under section 41A of that Act (interim orders),

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.

(9) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

(a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of deficient professional performance;

(b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or

(c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to that Act (procedure of committees),

the suspension shall not, except in so far as provided by a determination in accordance with regulations under subsection (2) above, terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.".

National Health Service (Scotland) Act 1978 (c.29)

9. For section 19(7) and (7A) of the National Health Service (Scotland) Act 1978(**b**) (arrangements and regulations for general medical services) substitute—

"(7) Where the registration of a medical practitioner in the register of practitioners is suspended—

(a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of his physical or mental health;

(b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or

(c) by an interim order under section 41A of that Act (interim orders),

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.

(7A) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

(a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of deficient professional performance;

(**a**) Section 29 was extended by the Health and Medicines Act 1988 (c.49), section 17, and amended by: the Health Services Act 1980 (c.53), sections 1 and 7 and Schedule 1, paragraph 42(b); the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 6, paragraph 2; the Medical Act 1983 (c.54), section 56(1) and Schedule 5, paragraph 16(a); S.I. 1985/39, article 7(3); the Health Authorities Act 1995 (c.17), Schedule 1, paragraph 18, and the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, paragraph 8. Subsection (9) was added by paragraph 28 of the Schedule to the Medical (Professional Performance) Act 1995 (c.51).

(**b**) Subsection (7A) was added by paragraph 29 of the Schedule to the Medical (Professional Performance) Act 1995.

(b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or

(c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to that Act (procedure of committees),

the suspension shall not, except in so far as provided by a determination in accordance with regulations under subsection (2) above, terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.".

Interpretation Act 1978 (c.30)

10. In Schedule 1 to the Interpretation Act 1978(**a**) (words and expressions defined) for the definition of "Registered medical practitioner" substitute—

"Registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act.".

Dentists Act 1984 (c.24)

11. For section 37(3) of the Dentists Act 1984 (definition of practice of dentistry) substitute—

"(3) In this section "medical authority" means one of the universities or other bodies listed in section 4(2) of the Medical Act 1983 (qualifying examinations and primary United Kingdom qualifications) which is entitled to hold qualifying examinations for the purpose of granting one or more primary United Kingdom medical qualifications.".

Merchant Shipping Act 1995 (c.21)

12. In section 53 of the Merchant Shipping Act 1995 (medical treatment on board ship), for "doctor" substitute "registered medical practitioner".

National Health Service Reform and Health Care Professions Act 2002 (c.17)

13. In section 29(1) of the National Health Service Reform and Health Care Professions Act 2002 (reference of disciplinary cases by Council to courts), for paragraphs (c) and (d) substitute—

"(c) a direction by a Fitness to Practise Panel of the General Medical Council under section 35D of the Medical Act 1983 (c. 54) that the fitness to practise of a medical practitioner was impaired otherwise than by reason of his physical or mental health,".

PART II

SECONDARY LEGISLATION

Pottery (Health and Welfare) Special Regulations 1950

14. In regulation 2(2) of the Pottery (Health and Welfare) Special Regulations 1950 (**b**)(interpretation), in the definition of "appointed doctor" after "fully registered medical practitioner" insert "who holds a licence to practise".

Mines (Medical Examinations) Regulations 1964

15. In regulation 5(8) of the Mines (Medical Examination) Regulations 1964(**c**) (medical examination of young persons and the giving of certificates), after "fully registered medical practitioner" insert "who holds a licence to practise".

Health and Personal Social Services (Northern Ireland) Order 1972

(**a**) This definition was previously amended by the Medical Act 1983 (c.54), section 56(1) and Schedule 5, paragraph 18.
(**b**) S.I. 1950/65.
(**c**) S.I. 1964/209; the relevant amending instrument is S.I. 1974/2013.

16. For Article 56(4C) and (4D) of the Health and Personal Social Services (Northern Ireland) Order 1972(a) (arrangements for general medical services) substitute—

"(4C) Where the registration of a medical practitioner in the register of practitioners is suspended—

(a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of his physical or mental health;

(b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or

(c) by an interim order under section 41A of that Act (interim orders),

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.

(4D) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

(a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of deficient professional performance;

(b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or

(c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to that Act (procedure of committees),

the suspension shall not, except in so far as provided by a determination in accordance with regulations under paragraph (2), terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.".

Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974

17. In article 2(1) of the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 (b)(interpretation), in the definition of "registered medical practitioner" at the end add "who holds a licence to practise".

Pharmaceutical Society (Statutory Committee) Order of Council 1978

18. In Part IV of the Appendix to the Pharmaceutical Society (Statutory Committee) Order of Council 1978(c) (applications for relief from consequences of previous decisions), in regulation 31, for "the Medical Acts 1956 to 1969" substitute "the Medical Act 1983, including a fully registered medical practitioner who does not hold a licence to practise,".

Health and Safety at Work (Northern Ireland) Order 1978

19.—(1) In Article 48 of the Health and Safety at Work (Northern Ireland) Order 1978(d) (the employment medical advisory service), at the end of paragraph (4) add "who holds a licence to practise".

(2) In Article 50 of the Health and Safety at Work (Northern Ireland) Order 1978 (supplementary) after "fully registered medical practitioner" insert "who holds a licence to practise".

The General Medical Council (Review Board for Overseas Qualified Practitioners Rules) Order of Council 1979

20. In the Appendix to the General Medical Council (Review Board for Overseas Qualified Practitioners Rules) Order of Council 1979(a)—

(a) S.I. 1972/1265 (N.I. 14).
(b) S.I. 1974/2211; the relevant amending instruments are S.I. 1986/2062, 1990/2371, 1993/1813 and 1994/1405.
(c) S.I. 1978/20.
(d) S.I. 1978/1039 (N.I. 9).

(a) for rule 10 substitute—

"**10.**—(1) There shall be an oral hearing of the application if the applicant so requests in the application mentioned in rule 9(a) or if the Board considers that such a hearing is desirable.

(2) Subject to paragraph (3), the hearing shall be in public if the applicant so requests or if the Board otherwise considers it appropriate but the Board may, if satisfied that it is in the interests of the applicant, exclude the public from being present during any part of the proceedings.

(3) The Board may for the purpose of deliberation, at any time exclude the applicant, his representative, any representative of the Council or the public."; and

(b) in rule 11—

(a) omit paragraph (a);

(b) in paragraph (b) omit "also"; and

(c) omit paragraph (f).

Medicines (Contact Lens Fluid and Other Substances) (Exemptions from Licences) Order 1979

21. In article 1(2) of the Medicines (Contact Lens Fluid and Other Substances) (exemptions from licences) Order 1979(**b**) (interpretation), at the appropriate place insert—

""doctor" means a registered medical practitioner;".

Pension Appeals Tribunals (England and Wales) Rules 1980

22. In rule 12 of the Pension Appeals Tribunals (England and Wales) Rules 1980(**c**) (evidence), in paragraphs (1) and (2), for "doctor", wherever it appears, substitute "registered medical practitioner".

Public Lending Right Scheme 1982 (Commencement) Order 1982

23. In the Appendix to the Public Lending Right Scheme 1982 (Commencement) Order 1982(**d**), both in Article 14A(c)(ii) (forms of application in respect of posthumously eligible books) and in paragraph 5 of Part I of Schedule 1 (application for first registration), for "doctor" substitute "registered medical practitioner, who need not hold a licence to practise,".

Nursing Homes and Mental Nursing Homes Regulations 1984

24. In regulation 2(1) of the Nursing Homes and Mental Nursing Homes Regulations 1984(**e**) (interpretation), in the definition of "medical practitioner", after "Medical Act 1983" insert "who holds a licence to practise".

Dental Auxiliaries Regulations 1986

25.—(1) In regulation 5(c) of the Dental Auxiliaries Regulations 1986(**f**) (the rolls and enrolment), after "practitioner" insert "who need not hold a licence to practise".

(2) In regulation 18(2) of the Dental Auxiliaries Regulations 1986 (restoration after erasure for misconduct), after "practitioners" insert "who need not hold licences to practise".

Sight Testing (Examination and Prescription)(No. 2) Regulations 1989

26. In regulation 2(1) of the Sight Testing (Examination and Prescription)(No. 2) Regulations 1989(**g**) (interpretation), in the definition of "doctor", after "Medical Act 1983" insert "who holds a licence to practise".

(**a**) S.I. 1979/29.
(**b**) S.I. 1979/1585; the relevant amending instrument is S.I. 1979/1745.
(**c**) S.I. 1980/1120.
(**d**) S.I. 1982/719; the relevant amending instrument is S.I. 1999/1042.
(**e**) S.I. 1984/1578; the relevant amending instruments are S.I. 1991/2532 and 2002/324. Regulation 2 was modified by S.I. 1996/971.
(**f**) S.I. 1986/887.
(**g**) S.I. 1989/1230.

Abortion (Scotland) Regulations 1991

27. In regulation 5 of the Abortion (Scotland) Regulations 1991(**a**) (restriction on disclosure of information), in paragraph (h), for "there has been serious professional misconduct by a practitioner" substitute "the fitness to practise of the practitioner is impaired".

Abortion Regulations 1991

28. In regulation 5 of the Abortion Regulations 1991(**b**) (restriction on disclosure of information), in paragraph (h), for "there has been serious professional misconduct by a practitioner" substitute "the fitness to practise of the practitioner is impaired".

National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992

29. In regulation 1(2) of the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(**c**) (interpretation), in the definition of "doctor", after "fully registered medical practitioner" insert "who holds a licence to practise".

National Health Service (General Medical Services) Regulations 1992

30.—(1) In regulation 2(1) of the National Health Service (General Medical Services) Regulations 1992(**d**) (interpretation)—

(a) in the definition of "medical register" for "section 34" substitute "section 2";

(b) the definitions of "Preliminary Proceedings Committee" and "Professional Conduct Committee" shall be omitted; and

(c) in the appropriate places there shall be inserted ""Fitness to Practise Panel" means a Fitness to Practise Panel referred to in section 1(3) of the Medical Act 1983;" and ""Investigation Committee" means the Investigation Committee of the General Medical Council referred to in section 1(3) of the Medical Act 1983;".

(2) In regulation 7 of the National Health Service (General Medical Services) Regulations 1992 (removal from the medical list)—

(a) in paragraph (1) for sub-paragraph (c) substitute—

"(c) is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act (order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);"; and

(b) in paragraph (3) for sub-paragraph (a) substitute—

"(a) any period during which the doctor provided no general medical services by reason only that his registration as a medical practitioner was suspended under section 35D of the Medical Act 1983 by a Fitness to Practise Panel following a finding by that Panel that his fitness to practise was impaired by reason of his physical or mental health or by interim order under section 41A of the Medical Act 1983 (interim orders);"

(3) In regulation 18E(2) of the National Health Service (General Medical Services) Regulations 1992(**e**)(criteria for approval and nomination) for sub-paragraph (b) substitute —

"(b) that his entry in the Medical Register is subject to conditions imposed pursuant to section 35D (impairment of fitness to practice) or section 41A (interim orders) of the Medical Act 1983.".

(**a**) S.I. 1991/460.
(**b**) S.I. 1991/499; the relevant amending instrument is S.I. 2002/887.
(**c**) S.I. 1992/434.
(**d**) S.I. 1992/635; the relevant amending instruments are S.I. 1995/3093, 1996/702, 1997/2468, 1998/682 and 2838, 1999/326, 2000/220 and 1707, 2001/3742, and 2002/554, 881, 916 and 1920.
(**e**) Regulation 18E was inserted by S.I. 1998/2838.

(4) In Schedule 2 of the National Health Service (General Medical Services) Regulations 1992 (terms of service for doctors) in paragraph 18A (out of hours arrangements), in sub-paragraph (7)(h), for (ii), substitute—

"(ii) he has been notified under section 35C(5) of the Medical Act 1983 that the Investigation Committee of the General Medical Council has decided that a case of which he is the subject should be referred to a Fitness to Practise Panel.".

(5) In Part III of Schedule 3 of the National Health Service (General Medical Services) Regulations 1992 (Information and Undertakings to be given etc.), in paragraph 6 at the end insert "who holds a licence to practise".

National Health Service (Pharmaceutical Services) Regulations 1992

31. In regulation 2(1) of the National Health Service (Pharmaceutical Services) Regulations 1992(**a**) (interpretation), in the definition of "doctor", after "means a" insert "registered".

National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995

32. In regulation 2(1) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(**b**) (interpretation), in the definition of "doctor", after "fully registered medical practitioner" insert "who holds a licence to practise".

National Health Service (General Medical Services) (Scotland) Regulations 1995

33.—(1) In regulation 7A of the National Health Service (General Medical Services) (Scotland) Regulations 1995(**c**) (removal from the medical list where a doctor has died etc.), for paragraph (c) substitute—

"(c) is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act (order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);".

(2) In paragraph 17A(h) of Schedule 1 to the National Health Service (General Medical Services) (Scotland) Regulations 1995 (out of hours arrangements), for head (ii) substitute—

"(ii) he has been notified under section 35C(5) of the Medical Act 1983 that the Investigation Committee of the General Medical Council has decided that he should be referred to the Fitness to Practise Panel.".

Children (Northern Ireland) Order 1995

34. In Article 2(2) of the Children (Northern Ireland) Order 1995(**d**) (interpretation), in the definition of "medical practitioner" after "Medical Act 1983" insert "who holds a licence to practise".

Merchant Shipping (Ships' Doctors) Regulations 1995

35. In regulation 2 of the Merchant Shipping (Ships' Doctors) Regulations 1995(**e**) (interpretation), in the definition of "qualified doctor" at the end add "who holds a licence to practise".

Cosmetic Products (Safety) Regulations 1996

36. In regulation 8 of the Cosmetic Products (Safety) Regulations 1996(**a**) (product information), in paragraph (3)(b), after "fully registered medical practitioner" insert "and holds a licence to practise".

(**a**) S.I. 1992/662; the relevant amending instruments are S.I. 1994/2402, 1996/698, 1998/681 and 224, 1999/696, 2000/121 and 593, 2001/1396 and 2888, and 2002/551 and 2016.
(**b**) S.I. 1995/414.
(**c**) S.I. 1995/416; the relevant amending instruments are S.I. 1996/842 and 2000/28.
(**d**) S.I. 1995/755 (N.I. 2).
(**e**) S.I. 1995/1803.

The Adoption Agencies (Scotland) Regulations 1996

37. In the Adoption Agencies (Scotland) Regulations 1996(b)—

(a) in regulation 8(b) (duties of adoption agencies in making arrangements for freeing for adoption), after "fully registered practitioner" insert "who holds a licence to practise";

(b) in regulation 9 (duties of adoption agencies in making arrangements after adoption), after "fully registered practitioner" insert "who holds a licence to practise";

(c) in paragraph 17 of Part I of Schedule 2 (particulars relating to the child), after "fully registered medical practitioner" insert "who holds a licence to practise";

(d) in paragraph 15 of Part II of Schedule 2 (particulars relating to each parent, including where appropriate, a father or mother who does not have parental responsibilities or rights in relation to the child), after "fully registered medical practitioner" insert "who holds a licence to practise"; and

(e) in paragraph 25 of Part IV of Schedule 2 (particulars relating to each prospective adopter), after "fully registered medical practitioner" insert "who holds a licence to practise".

Reserve Forces (Call-out and Recall) (Exemptions Etc.) Regulations 1997

38. In regulation 2(1) of the Reserve Forces (Call-out and Recall) (Exemptions Etc.) Regulations 1997(c) (interpretation), insert at the appropriate place—

""doctor" means a registered medical practitioner;".

National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998

39. In regulation 2(1) of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(d) (interpretation), in the definition of "practitioner", after "fully registered medical practitioner" insert "who holds a licence to practise".

Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998

40. In regulation 8(1) of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998(e) (young persons' medical certificates), after "Medical Act 1983" insert "who holds a licence to practise".

National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998

41. In regulation 1(2) of the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998(f) (interpretation), in the definition of "doctor", after "fully registered medical practitioner" insert "who holds a licence to practise".

Prison Rules 1999

42. In rule 20(3) of the Prison Rules 1999(g) (medical attendance), after "Medical Act 1983" insert "who holds a licence to practise".

Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999

(a) S.I. 1996/2925; the relevant amending instrument is S.I. 1997/2914.
(b) S.I. 1996/3266.
(c) S.I. 1997/307.
(d) S.I. 1998/5.
(e) S.I. 1998/2411.
(f) S.I. 1998/659.
(g) S.I. 1999/728.

43. In Schedule 2 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999(**a**) (general definitions) for the definition of "registered medical practitioner" substitute—

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act;".

Medical Act 1983 (Amendment) Order 2000

44. Articles 3 to 14, 15(a) to (e) and 16 of the Medical Act 1983 (Amendment) Order 2000(**b**) are hereby revoked.

Young Offender Institution Rules 2000

45. In rule 27(3) of the Young Offender Institution Rules 2000(**c**) (medical attendance), after "Medical Act 1983" insert "who holds a licence to practise".

National Health Service (Personal Medical Services) (Scotland) Regulations 2001

46. In regulation 7(2) of the National Health Service (Personal Medical Services) (Scotland) Regulations 2001(**d**) (performance of personal medical services by medical practitioners), for sub-paragraph (e) substitute—

"(e) is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act (order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);".

Detention Centre Rules 2001

47. In rule 33(1) of the Detention Centre Rules 2001(**e**) (medical practitioner and health care team), after "Medical Act 1983" add "who holds a licence to practise".

Life Sentences Review (Northern Ireland) Order 2001

48. In Article 3(6) of the Life Sentences Review (Northern Ireland) Order 2001(**f**) (Life Sentence Review Commissioners) after "Medical Act 1983" add "who holds a licence to practise".

Education (Special Educational Needs) (England) (Consolidation) Regulations 2001

49. In regulation 9 of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001(**g**) (medical advice) at the end add "who holds a licence to practise".

National Health Service (General Medical Services Supplementary List) Regulations 2001

50.—(1) In regulation 4 of the National Health Service (General Medical Services Supplementary List) Regulations 2001(**h**) (application for inclusion in the supplementary list), in paragraph (2)(f) after "in the Medical Register" add "who holds a licence to practise".

(2) In regulation 6(1) of the National Health Service (General Medical Services Supplementary List) Regulations 2001 (grounds for refusal) for sub-paragraph (f) substitute—

(**a**) S.I. 1999/1379; the relevant amending instrument is S.I. 2002/881.
(**b**) S.I. 2000/1803.
(**c**) S.I. 2000/3371.
(**d**) S.I. 2001/72.
(**e**) S.I. 2001/238.
(**f**) S.I. 2001/2564 (N.I. 2).
(**g**) S.I. 2001/3455.
(**h**) S.I. 2001/3740; the relevant amending instrument is S.I. 2002/848.

"(f) where his registration in the register of medical practitioners is subject to conditions imposed pursuant to section 35D (impairment of fitness to practise) or section 41A (interim orders) of the Medical Act 1983."

(3) In regulation 10 of the National Health Service (General Medical Services Supplementary List) Regulations 2001 (removal from supplementary list)—

(a) in paragraph (1) for sub-paragraph (f) substitute—

"(f) he is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act (order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);"; and

(b) in paragraph (8), for sub-paragraph (a) substitute—

"(a) during which his registration as a medical practitioner was suspended under section 35D of the Medical Act 1983 by a Fitness to Practise Panel following a finding by that Panel that his fitness to practise was impaired by reason of his physical or mental health or by interim order under section 41A of the Medical Act 1983 (interim orders);".

Education (Special Educational Needs) (Wales) Regulations 2002 (Rheoliadau Addysg (Anghenion Addysgol Arbennig) (Cymru) 2002)

51.—(1) In regulation 9 of the Education (Special Educational Needs) (Wales) Regulations 2002(a) (medical advice) at the end add "who holds a licence to practise".

(2) Yn rheoliad 9 o Reoliadau Addysg (Anghenion Addysgol Arbennig) (Cymru) 2002 (cyngor meddygol), rhowch ar y diwedd y geiriau "ac sy'n dal trwydded i ymarfer".

National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 (Rheoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) (Cymru) 2002)

52.—(1) In regulation 4 of the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002(b) (application for inclusion in the supplementary list), in paragraph (2)(f) after "in the Medical Register" add "who holds a licence to practise".

(2) In regulation 6(1) of the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 (grounds for refusal) for sub-paragraph (f) substitute—

"(f) where his registration in the register of medical practitioners is subject to conditions imposed pursuant to section 35D (impairment of fitness to practise) or section 41A (interim orders) of the Medical Act 1983."

(3) In regulation 10 of the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 (removal from supplementary list)—

(a) for sub-paragraph (1)(f) substitute—

"(f) he is the subject of—

(i) a direction given by a Fitness to Practise Panel under 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding that his fitness to practise was impaired by reason of misconduct, conviction or determination, or

(ii) an order made by that Panel under section 38(1) of that Act (order for immediate suspension);"; and

(b) for sub-paragraph 10(8)(a) substitute—

"(a) during which his registration as a medical practitioner was suspended under section 35D of the Medical Act 1983 by a Fitness to Practise Panel following a finding by that Panel that his

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(a) S.I. 2002/152 (W. 20) (O.S 2002/152 (Cy. 20).
(b) S.I. 2002/1882 (W.191) (O.S. 2002/1882 (Cy. 191).

fitness to practise was impaired by reason of his physical or mental health or by interim order under section 41A of the Medical Act 1983 (interim orders).".

(4) Yn rheoliad 4 o Reoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) (Cymru) 2002, (cais i gynnwys enw ar y rhestr atodol), ym mharagraff 2(dd) ar ôl y geiriau "Gofrestr Feddygol" rhowch y geiriau "ac sy'n dal trwydded i ymarfer".

(5) Yn rheoliad 6 o Reoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) (Cymru) 2002 (rhesymau dros wrthod) yn lle is-baragraff (1)(dd) rhowch—

"(dd) os yw cofrestriad y meddyg yn y gofrestr o ymarferwyr cyffredinol yn ddarostyngedig i amodau a osodwyd yn unol ag adran 35D (amhariad ar ffitrwydd i ymarfer) neu adran 41A (gorchmynion interim) o Ddeddf Feddygol 1983;"

(6) Yn rheoliad 10 (tynnu oddi ar restr atodol)—

(a) yn lle is-baragraff (1)(dd) rhowch—

"(dd) bod y meddyg yn destun

(i) cyfarwyddyd a roddwyd gan Banel Ffitrwydd i Ymarfer o dan adran 35D o Ddeddf Feddygol 1983 (amhariad ar ffitrwydd i ymarfer) i ddileu ei enw neu atal dros dro ei gofrestriad yn y gofrestr, yn dilyn dyfarniad bod camymddygiad, collfarniad neu benderfyniad wedi amharu ar ei ffitrwydd i ymarfer, neu

(ii) gorchymyn a wnaed gan y Panel hwnnw o dan adran 38(1) o'r Ddeddf honno (gorchymyn i atal dros dro ar unwaith);"; a

(b) yn lle is-baragraff 10(8)(a) rhowch—

"(a) pan atalwyd dros dro gofrestriad y meddyg fel ymarferydd cyffredinol o dan adran 35D o Ddeddf Feddygol 1983 gan Banel Ffitrwydd i Ymarfer yn dilyn dyfarniad gan y Panel hwnnw bod ei iechyd corfforol neu feddyliol wedi amharu ar ei ffitrwydd i ymarfer neu drwy orchymyn interim o dan adran 41A o Ddeddf Feddygol 1983 (gorchmynion interim).".

SCHEDULE 2 Article 16(2)

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

(a) a reference to an old section of or paragraph in the Act shall be construed as a reference to that provision as it had effect prior to its amendment or substitution by this Order and a reference to a new section of or new paragraph in the Act shall be construed as a reference to that provision as amended or substituted or re-enacted (with or without modification) by this Order; and

(b) "enactment" includes—

(i) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and

(ii) any provision of, or any instrument made under, Northern Ireland legislation.

Registration

2.—(1) A person who, before 31st October 2003, is awarded a recognised overseas qualification which under the old section 19 of the Act would entitle him to be—

(a) fully registered under that section; or

(b) provisionally registered under the old section 21 of the Act and, on satisfying the requirements under the old section 20(2)(a) of the Act as to experience, to be fully registered under the old section 19 of the Act,

shall if he applies or has applied to the Registrar in accordance with sub-paragraph (2) or (3) below be eligible for full registration or provisional registration and subsequently full registration under the old section 19 or, as the case may be, the old section 21, as if they were still in force.

(2) An application for full registration under the old section 19 of the Act shall (except where sub-paragraph (3) applies) be made not later than 31st December 2003.

(3) An application for provisional registration under the old section 21 of the Act shall be made not later than 31st December 2003 and subsequent to that application an application for full registration may be made at any time.

(4) In this paragraph, "recognised overseas qualification" has the meaning given in the old section 19 of the Act.

3.—(1) In relation to applications under the old sections 19 and 21 of the Act—

(a) the General Council may continue to provide facilities for testing the knowledge of English of an applicant; and

(b) the old section 30(1) and the new section 30(1) of the Act shall apply as if the reference in paragraph (a) to section 19 or 20 included a reference to the old section 19 or 21 of the Act.

(2) Until article 6(11) of this Order comes into force—

(a) for section 28(2)(b) there shall be substituted—

"(b) such number of other persons (who may, but need not, be members of the General Council) as the Council may by rules prescribe and including at least—

(i) one person who is neither registered with the General Council nor a holder of any qualification registrable under this Act, and

(ii) one person who is or has been registered under Part III of the Medical Act 1956, under section 18 or 22 of the Medical Act 1978 or under section 19, 21A, 22 or 25 of this Act."; and

(b) the old section 29 of the Act shall be amended as follows—

(i) in subsection (2)(c) for the words from "by virtue of section 25" to "section 19 above" substitute "under section 25 above that he be registered under that section ", and

(ii) in subsection (3)—

(aa) in paragraph (a) for "section 20" substitute "section 19(1)(b)";

(bb) omit paragraph (b), and

(cc) in paragraph (c) omit "(a), (b),".

(3) Notwithstanding the changes to the Review Board as a result of the coming into force of sub-paragraph (2)(a) above, the new Review Board resulting from those changes shall complete any case that is being considered but has not been completed by the old Review Board before the coming into force of that sub-paragraph.

(4) Any application that is being considered by the Review Board on the date of the coming into force of article 6(11) of this Order shall be dealt with by the Review Board in accordance with the General Medical Council (Review Board for Overseas Qualified Practitioners Rules) Order of Council 1979(a), unless the person whose application is being considered requests that the application be transferred to a Registration Appeals Panel.

(5) If, at the date of the coming into force of article 6(11) of this Order—

(a) a decision falling within section 29(2) of the Act has been made but an application to the Review Board under section 29(1) of the Act has not been made and the period for making such an application has not expired, if any such application is made it shall be considered by a Registration Appeals Panel; or

(a) S.I. 1979/29.

(b) any application under section 29(1) has been made but the Review Board has not started to consider it, that case shall be considered instead by a Registration Appeals Panel.

(6) After the coming into force of article 6(11) of this Order, if a person makes an application for full registration under the old section 19 of the Act in accordance with paragraph 2(3) above, having previously been provisionally registered under the old section 21 of the Act, any decision not to direct that he shall be registered shall be an appealable registration decision for the purposes of Schedule 3A to the Act.

4. All entries in the overseas list immediately prior to the coming into force of article 9(1) of this Order shall be transferred to the principal list.

5.—(1) Any person who is fully registered or provisionally registered pursuant to the old section 19 or 21 of the Act after the coming into force of article 9(1) of this Order shall be entitled to be included in the principal list.

(2) If a person is successful in an appeal against a decision taken to erase his name from the overseas list before the coming into force of article 9(1) of this Order, the committee may, if they think fit, direct that he be included in the principal list.

Fitness to practise

6. Except as provided for in paragraphs 7 and 8 below, any allegation that has been made to the General Council concerning a medical practitioner's professional conduct, professional performance or fitness to practise prior to the coming into force of the new section 35C of this Act that has not been referred to the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee shall be dealt with by the Investigation Committee in accordance with new section 35C of the Act.

7. Any case that has been referred to and is being considered by the Preliminary Proceedings Committee at the date of the coming into force of the new section 35C of this Act shall be dealt with by that Committee in accordance with old section 42 of, and old Schedule 4 to, the Act (including rules made under that Schedule), and—

(a) if the Committee decides to refer the case for inquiry, it shall be dealt with by a Fitness to Practise Panel; and

(b) the matter shall thereafter be disposed of by that Panel in accordance with paragraph 10 below.

8.—(1) Any case that has been referred to and is being considered by the Assessment Referral Committee on the date of the coming into force of the new section 35C of the Act shall be dealt with by that Committee in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act, and if the Committee decide that an assessment needs to be carried out, the matter shall be referred to the Investigation Committee to be dealt with in accordance with the new section 35C of the Act.

(2) Any case that has been referred to but has not yet been considered by the Assessment Referral Committee on the date of the coming into force of the new section 35C of the Act shall be dealt with by a Fitness to Practise Panel in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act, and if the Panel decide that an assessment needs to be carried out, the matter shall be dealt with thereafter by that Panel in accordance with the rules made under the new paragraph 5A of Schedule 4 to the Act.

9. Any reference in any enactment or instrument to a notification under the new section 35C(5) of the Act of a decision of the Investigation Committee to refer a case to a Fitness to Practise Panel shall be construed as including a reference to a notification under the old section 42(3) of the Act of a decision by the Preliminary Proceedings Committee to refer a practitioner to the Professional Conduct Committee or the Health Committee.

10. Any case which—

(a) has been referred to the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance but which has not been disposed of on the date of the coming into force of the new section 35D of the Act; or

(b) is referred to a Fitness to Practise Panel after the coming into force of the new section 35D of the Act in accordance with paragraph 7 above,

shall be disposed of by a Fitness to Practise Panel either in accordance with the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

11. Any reference in any enactment (including an enactment comprised in the Act) or instrument to a direction given by a Fitness to Practise Panel shall be construed as including a reference to a corresponding direction made by —

(a) the Professional Conduct Committee under the old section 36 or 38 of the Act;

(b) the Health Committee under the old section 37 or 38 of the Act;

(c) the Committee on Professional Performance under the old section 36A or 38 of, or under rules made under the old paragraph 5A of Schedule 4 to, the Act; or

(d) a Fitness to Practise Panel under either the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

12. An appeal which relates to a direction or order—

(a) made under the old sections 36 to 37, 39, 41, 44 or 45 of the Act; or

(b) which was an appealable decision for the purposes of the old section 40 of the Act,

shall be dealt with in accordance with old section 40 of the Act, except as provided in paragraph 13 below.

13. Where any case would have been remitted under the old section 40(7) of the Act to the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance, that case shall be remitted instead to the Registrar for him to refer it to a Fitness to Practise Panel to be dealt with under the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act .

14.—(1) An application to the court under the old section 38 of the Act shall be dealt with in accordance with the old section 38 of the Act.

(2) An appeal from any direction of the Committee on Professional Performance given by virtue of the old paragraph 5A(3) of Schedule 4 to the Act shall lie to the court and shall be dealt with in accordance with the old paragraph 5A(4) of Schedule 4 to the Act.

15. Where, prior to the coming into force of the new section 35D of the Act—

(a) a medical practitioner has agreed to an assessment of his professional performance under rules made under the old paragraph 5A of Schedule 4 to the Act; or

(b) an assessment of a medical practitioner has to be carried out by virtue of a direction given in rules made under the old paragraph 5A of Schedule 4 to the Act,

a Fitness to Practise Panel may not direct in any proceedings relating to that assessment that his name shall be erased under the new section 35D(2) of the Act.

16. In relation to any application under the old section 41 of the Act that has not been determined by the Professional Conduct Committee on the coming into force of article 6(2) of this Order relating to a person—

(a) who was provisionally registered under old section 21 but;

(b) to whom the new section 19(2) does not apply,

the Professional Conduct Committee shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

17. Any application under the old section 41 of the Act that has not been determined by the Professional Conduct Committee on the date of the coming into force of the new section 41 of the Act (whether or not it is brought fully into force) shall be disposed of by a Fitness to Practise Panel in accordance with the old section 41 of, and the old Schedule 4 to, the Act (including any rules made under that Schedule), but if the application relates to a person –

(a) who was provisionally registered under the old section 21 but;

(b) but to whom the new section 19(2) does not apply,

a Fitness to Practise Panel shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

18. In relation to any application under the new section 41 of the Act relating to a person –

(a) who was provisionally registered under the old section 21 but;

(b) to whom new section 19(2) does not apply,

a Fitness to Practise Panel shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

19. Any application under the new section 41 of the Act that has not been determined by a Fitness to Practise Panel on the date of the coming into force of the new section 41(7) of the Act shall be disposed of as if that provision were not in force.

20. Any case that is pending before the Interim Orders Committee under the old section 41A(1) or (2) of the Act on the date of the coming into force of the new section 41A of the Act shall be disposed of by an Interim Orders Panel or a Fitness to Practise Panel in accordance with the new section 41A of, and the new Schedule 4 to, the Act (including rules made under that Schedule).

21. Any case that is pending before the Interim Orders Committee, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance under the old section 41A(3) of the Act on the date of the coming into force of the new section 41A of the Act shall be disposed of by an Interim Orders Panel or a Fitness to Practise Panel in accordance with the new section 41A(3) of, and the new Schedule 4 to, the Act (including rules made under that Schedule).

22. Any application that is pending before the court under the old section 41A(6) of the Act before the date of the coming into force of the new section 41A of the Act shall be disposed of in accordance with the old section 41A of, and the old Schedule 4 to, the Act (including rules made under that Schedule).

23. Where, prior to the coming into force of the new section 41A of the Act, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance has made an order under the old section 41A(3)(c) or (d) of the Act, a Fitness to Practise Panel may in accordance with the old section 41B of, and the old Schedule 4 to, the Act (including rules made under that Schedule) do any of the things mentioned in old section 41B(2), read with the old section 41B(3), of the Act.

24. Any reference in any enactment (including an enactment comprised in the Act) or instrument to an order made by a Fitness to Practise Panel or an Interim Orders Panel under the new section 41A or 41B of the Act shall be construed as including a reference to an order made under the old section 41A or 41B of the Act by the Interim Orders Committee, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance or an order made by a Fitness to Practise Panel by virtue of paragraph 23 of this Schedule.

25. Any case that is pending before the Professional Conduct Committee under the old section 44(5) of the Act on the date of the coming into force of the new section 44 of the Act shall be disposed of by a Fitness to Practise Panel in accordance with the new section 44(5) of the Act.

26. Any case that is pending before the Professional Conduct Committee under the old section 45 of the Act on the date of the coming into force of the new section 45 of the Act shall be disposed of by a Fitness to Practise Panel in accordance with the new section 45 of the Act.

27. Any reference in the new section 45(1) of the Act to a finding of a Fitness to Practise Panel shall be construed as including a reference to a finding of a kind referred to in the old section 45(1)(a) or (b) of the Act by the Professional Conduct Committee.

28. The references in the new section 45(3) and (4) of the Act to a prohibition order under the new section 45 of the Act shall be construed as including a reference to a prohibition order imposed under the old section 45(1) of the Act.

29. For the purposes of the new section 45(6) of the Act, applications made under the old section 45 of the Act for termination of a prohibition order shall be treated as if made under the new section 45 of the Act.

30. For the purposes of the new section 45(8) of the Act, a direction under the new section 45(6) of the Act shall be construed as including a reference to a direction made under the old section 45(6) of the Act.

Miscellaneous

31. A person shall be entitled to recover any charge under the new section 46(1) of the Act notwithstanding that he does not hold a licence to practise if the charge relates to a matter which took place before the commencement of article 12(4) of this Order, and for these purposes the new section 46(3) of the Act shall apply as if the words "and holds a licence to practise" were omitted.

32. A certificate signed by a person who is fully registered but who does not hold a licence to practise shall be valid notwithstanding the new section 48 of the Act if the certificate was signed before the commencement of article 12(6) of this Order.

33. The new section 53(2) of the Act shall apply to an order of the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee under the old section 38 of the Act.

34. Subject to paragraph 35, where—

(a) proceedings are pending before the Committee on Professional Performance; or

(b) an appeal against a direction of that Committee is pending,

on the date of the commencement of article 15(6)(c) of this Order in so far as it relates to the definition of "professional performance", the Committee or the court shall dispose of the proceedings as if that provision, in so far as it relates to the definition of "professional performance", were not in force.

35. An assessment carried out by virtue of the old paragraph 5A of Schedule 4 to the Act after the coming into force of article 15(6)(c) of this Order in so far as it relates to the definition of "professional performance" may include—

(a) an assessment of a registered person's professional performance at any time prior to the assessment; and

(b) an assessment of the standard of his professional performance at the time of the assessment.

36. In any case where, as a result of the provisions of this Schedule, a direction or order has been made under the made under the old sections 36 to 39, 41, 44 or 45 of the Act, any further consideration of that case otherwise than by way of an appeal shall be dealt with as if the order or direction had been made under the corresponding new sections of the Act.

37. Until the coming into force of the new section 44A(3) of the Act, if registration is refused or if a person's name is removed from the register in accordance with subsection (1) or (2) that section—

(a) the Registrar shall serve notification of the refusal or removal on that person;

(b) the Registrar shall, on request state in writing the reasons for the refusal or removal;

(c) the person may appeal by giving notice to the General Council; and

(d) any such appeal shall be determined by the General Council or, if the Council have delegated their functions under this paragraph to a committee, by that committee,

and the old paragraph 8 of Schedule 4 to the Act or the new paragraph 8 of Schedule 4 to the Act shall apply to any notification served under sub-paragraph (a) above.

38. The first Regulations made under new section 29A of the Act shall provide, except in prescribed cases or circumstances, that persons, who on the date on which any provision of those regulations comes into force are registered under the Act with full or limited registration, shall be granted a licence to practise.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Medical Act 1983 ("the Act").

The Order is made under sections 60 and 62(4) of the Health Act 1999. Under paragraph 9(1) of Schedule 3 to the Health Act 1999, the Secretary of State published a draft of the Order and invited representations to be made on it. A copy of the report about the consultation is available from the Department of Health's website (www.doh.gov.uk/gmc reform).

Article 3 provides for the main objective of the General Medical Council ("the Council") in exercising its functions to be the protection, promotion and maintenance of the health and safety of the public.

Article 4 makes various amendments to Schedule 1 to the Act concerning the constitution of the Council and in particular provides for—

- the Council to consist of no more than thirty-five members (article 4(1));
- an electoral scheme to divide any of the constituencies for elected members into two or more constituencies (article 4(3)(a));
- the disclosure of information in an election (article 4(3)(c));
- the limitations on the type of bodies that can be designated as appointing bodies to be removed (article 4(4));
- the members of the Council who are registered medical practitioners also to hold a licence to practise (article 4(3)(b) and (4));
- all the nominated members of the Council to be lay persons (article 4(5));
- the Council to make rules for the suspension or removal from office of members (article 4(6)); and
- the Constitution Order establishing the Council to make provision regarding the filling of casual vacancies amongst the elected members of the Council and for the quorum of the Council (article 4(7) and (8) respectively).

Article 5 provides for the abolition of the Interim Orders Committee, the Preliminary Proceedings Committee, the Professional Conduct Committee, the Assessment Referral Committee, the Committee on Professional Performance and the Health Committee. It provides for the establishment of Interim Orders Panel, Registration Decisions Panels, Registration Appeals Panels, an Investigation Committee and Fitness to Practise Panels as statutory committees of the Council.

Article 6 makes changes to Part III of the Act concerning registration of persons qualifying overseas. In particular—

- section 19 is substituted for a provision limited to EEA nationals and other persons with rights under Community law (article 6(2));
- new section 21A is inserted into the Act which provides for full registration of specialists and general practitioners who have qualifications from outside the United Kingdom (article 6(5));
- section 22 is amended to allow for a wider range of medical appointments to be specified by the Council for the purposes of obtaining limited registration (article 6(6)); and
- sections 28 and 29 are repealed thereby providing for the abolition of the Review Board (article 6(11)).

Article 7 makes changes to Part IV of the Act (general provisions concerning registration). In particular—

- it provides for the register of medical practitioners and register of medical practitioners with limited registration to be published, including electronically (article 7(4)); and
- allows for the Registrar to issue certificates regarding the registration status of a medical practitioner and whether or not a practitioner holds a licence to practise.

Article 8 inserts a new section 34B and Schedule 3A concerning registration appeals. Schedule 3A provides for a right of appeal to a Registration Appeals Panel from decisions made under the sections of the Act specified in paragraph 2(1) of that Schedule (appealable registration decisions). There is a right of appeal from a Registration Appeals Panel to the county court or in Scotland to the sheriff. The Schedule in part implements Directive 2001/19/EC (O.J. No. L 206, 31.7.2001, p.1) which inserts article 42d into Directive 93/16/EEC (O.J. No. L 165, 7.7.1993, p.1). A Transposition Note has been prepared and is to be found on the Department of Health's website at the above address.

Article 9 makes further and supplementary provision to articles 6 to 9. In particular, it abolishes the overseas list.

Article 10 inserts new sections 29A to 29J into the Act.

- new section 29A provides for the Council to make regulations with respect to the grant or refusal to grant or withdrawal of a licence to practise by a licensing authority and for the revalidation of medical practitoners;
- new section 29B makes more detailed provision regarding the power to make regulations under section 29A;
- new section 29C makes provision for a licensing authority to make a referral to the Investigation Committee where it is concerned about the fitness to practise of a medical practitioner;
- new section 29D provides for regulations under section 29A to make provision for the restoration of a licence to practise;
- new section 29E makes provision about evidence;
- new section 29F provides for an appeal from a decision of a licensing authority to a Registration Appeals Panel. It provides for new Schedule 3B (which is inserted into the Act by article 11 below) to apply to such appeals;
- new section 29G provides for the Council to publish guidance for medical practitioners relating to revalidation and the restoration of a licence to practise;
- new section 29H makes provison regarding notices; and
- new section 29J makes miscellaneous provision.

Article 11 inserts a new Schedule 3B into the Act regarding appeals to a Registration Appeals Panel in respect of a decision to refuse to grant or restore, or to withdraw, a licence to practise. It provides for an appeal from a Registration Appeals Panel to the county court or in Scotland to the sheriff.

Article 12 makes supplementary provision on the introduction of a licence to practise. In particular, it makes it an offence to pretend to hold a licence to practise (article 12(7)).

Article 13 substitutes Part V of the Act (professional conduct and fitness to practice). It provides for the Investigation Committee to investigate allegations that a medical practitioner's fitness to practise is impaired (new section 35C). A Fitness to Practise Panel will be able to make a direction for the erasure, suspension or conditional registration of a medial practitioner whose fitness to practise it finds is impaired (new section 35D). An Investigation Committee or a Fitness to Practise Panel will be able to give a warning to a practitioner regarding his future conduct or performance (new sections 35C(6) and 35D(3) respectively). New sections 35CC and 35E make provision supplementary to new sections 35C and 35D respectively. New section 41C sets out the effect of a direction for erasure or an order for suspension on the holding of a licence to practise. New section 44A provides for the effect on registration of a conviction or disqualification.

Article 14 substitutes Schedule 4 of the Act (proceedings before the Professional Conduct, Health and Preliminary Proceedings Committee) with new provisions relating to the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels.

Article 15 makes miscellaneous amendments to the Act. In particular, it provides for the Council to—

- submit annual reports to the Privy Council (article 15(4));
- co-operate with public authorities and other bodies or persons (article 15(7)); and
- inform medical practitioners and the public about their work and the exercise of their functions (article 15(7)).

Article 16 and Schedules 1 and 2 make consequential, transitional, transitory and savings provisions relating to other provisions in the Order.

Field Fisher Waterhouse

Ian Barker
MDU Services Limited
230 Blackfriars Road
London
SE1 8PJ

Our ref:
Your ref: Code A

By post and by email : Code A

15 May 2009

Dear Sirs

General Medical Council - Dr Jane Barton
Fitness to Practise Panel – 8 June to 28 August 2009

As you are aware, the General Medical Council has scheduled a Fitness to Practise Panel hearing to commence on 8 June 2009 for 55 days in order to consider whether your client's fitness to practise is impaired by reason of misconduct.

Evidence

In accordance with Rule 34(9), each party is required to disclose any evidence upon which it wishes to rely in advance of the hearing.

To prove the allegations, we intend to introduce both oral and documentary evidence.

Witnesses

We intend to call those witnesses set out at pages 1-5 of the enclosed document entitled 'Witness Schedule' (Annex A), unless otherwise stated in the comments column. To assist you we have also set out, at pages 6 and 7 of Annex A, a list of those individuals who we do not intend to call. By way of confirmation, Annex A is the same document which was previously provided to you by email on 13 May 2009 (Cooper/Barker). Please note that this document does include a timetable in that it shows the day, date and am/pm next to each witness.

You will note that there are some witnesses, set out in Annex A, who have the comment 'Efforts being made to obtain this witness' marked against their name. We are making every effort to secure the attendance of these witnesses and are hopeful that they will be attending the FTP hearing and giving evidence before the Panel. We will keep you updated in respect of the status of these witnesses, as soon as further information is known.

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We use the term partner to refer to a member of Field Fisher Waterhouse LLP, or an employee or consultant with equivalent standing and qualifications.

We are at present making urgent efforts to trace Sandra Briggs, who gave evidence at the coroner's inquest (Day 10 page 52). A copy of Ms Brigg's police statement was disclosed to you on 10 October 2007. In the event that we do trace Ms Briggs, we may wish to add her to the list of GMC witnesses who are to be called to give evidence at the FTP hearing. We will confirm the position, in respect of Ms Briggs attendance, as soon as we are able to.

In your fax of today's date you indicate that "a significant number of individuals are in fact not now to be called to give evidence". On page 6 of the document we list 8 witnesses (other than nurses) who made statements for us and whom we now do not intend to call. On pages 6-7 we list nurses who we do not intend to call only 4 of whom made statements for these proceedings. The reason for not calling Ms Gillian Hamblin is her health (about which you have kept us informed) and we notified you of our intention not to call Dr Lord considerable time ago.

If there are particular difficulties as a result, with which you think we may be able to assist, please let us know.

In accordance with Rule 34(9)(c), we request that you confirm within 14 days of receiving this letter whether or not you require any witnesses to attend the hearing and give oral evidence in relation to statement(s)/documents in order that we can inform our witnesses as to whether or not they will be needed at the hearing.

We understand that our respective Counsel are have been, and continue to, discuss which evidence may be read by agreement. We are informed by our Counsel that a meeting is to take place, on 21 May 2009, between the legal teams to further refine witness timetabling and attendance. We anticipate that you will be in a better position to inform us which of our witnesses you require to attend the hearing, following this meeting.

Documents

Subject to further discussions with Counsel we intend to provide the Fitness to practice Panel with copies of a limited number of those documents (those which are admissible) set out in the enclosed schedule entitled 'Schedule of Documents' (Annex B). You will note that we have included within the schedule, the dates on which each document was disclosed to you.

At this stage we are still refining the actual documents to go in the Panel Bundle and can assure you that not everything listed in Annex B is for the Panel Bundle is it simply part of the material we are reviewing as we collate the final index and prepare for the hearing. Clearly, for example, witness statements made for FFW or the police (and police witness interviews) would not usually go before the Panel (items 1-49). Very rarely there may be an exhibit which Counsel wishes us to include. Items 50-56 include some substantial files and we do not intend to suggest we will be using vast quantities of this material in any bundle – indeed to the extent that this may include for example statements of witnesses upon whom we do not rely we are clearly not intending to include such documents.

Medical Records

We intend to rely on the medical records (or extracts) of the following patients (*which have previously been disclosed to you on 10 October 2007)*:

1. Patient A – Lesley Pittock
2. Patient B – Elsie Lavender
3. Patient C – Eva Page
4. Patient D – Alice Wilkie
5. Patient E – Richards
6. Patient F – Ruby Lake
7. Patient G – Arthur Cunningham
8. Patient H – Robert Wilson
9. Patient I – Enid Spurgin
10. Patient J – Geoffrey Packman
11. Patient K – Elsie Devine
12. Patient L – Jean Stevens

In accordance with Rule 34(9) you must provide to us, a list of all documents which you intend to introduce as evidence. Please also confirm whether you intend to rely on any witnesses, and if so, who.

Unused Material

We have, during the course of our investigation, previously disclosed various bundles of unused materials, that is materials on which we do not intend to rely at the hearing. A document entitled 'Schedule of Unused Materials' (Annex C) is enclosed with this letter. Annex C sets out a list of all material which is currently unused all of which has been disclosed to you and provides the date of disclosure, for your ease of reference.

We are writing separately to address the concerns you very recently raised about the unused material sent to you previously. We have had to access our archived boxes to prepare a complete answer on this.

Notice of Hearing

You will be aware that a Notice of Hearing has been served on your client, particularising the allegations against her and the facts upon which they are based.

Should you have any queries about the documents enclosed with this letter, please contact Rachel Cooper of this office on Code A.

Please acknowledge safe receipt.

Yours faithfully

Field Fisher Waterhouse LLP

The GMC is a charity registered in England and Wales (1089278) and Scotland (SCO37750)

Index to Enclosures

1. Annex A – Witness Schedule

2. Annex B – Schedule of Documents

3. Annex C – Schedule of Unused Materials

Annex B

General Medical Council

Dr Jane Barton

Schedule of Documents

1. Exhibits of GMC statement of Code A dated 7 June 2008 *(previously disclosed to you on 9 June 2008)*

    a. Police statement dated 16 April 2004

2. Exhibits of GMC statement of Code A dated 22 July 2008 *(previously disclosed to you on 5 August 2008)*

    a. Police statement dated 2 July 2003

3. Exhibits of GMC statement of Code A dated 6 April 2008 *(previously disclosed to you on 30 May 2008)*

    a. Police statement dated 4 February 2005

    b. Police statement dated 27 June 2005

4. Exhibits of GMC statement of Lynn Barrett dated 28 March 2008 *(previously disclosed to you on 3 April 2008)*

    a. Police statement dated 7 March 2003

    b. Police statement dated 3 September 2004 made in relation to the care of Elsie Devine

    c. Police statement dated 11 August 2004 made in relation to the care of Leslie Pittock.

    d. Police statement dated 19 January 2005 made in relation to the care of Ruby Lake.

e. Police statement dated 22 July 2005 made in relation to the care of Sheila Gregory.

f. Police statement dated 3 February 2006 made in relation to the care of Enid Spurgin.

5. Exhibits of GMC statement of Phillip Beed dated 14 July 2008 *(previously disclosed to you on 15 July 2008)*

   a. Transcript of police interview

6. Police statement of Code A dated 26 January 2005 *(previously disclosed to you on 10 October 2007).*

7. Police statement of Michael Briggs dated 16 February 2005 *(previously disclosed to you on 10 October 2007).* GMC production statement to follow.

8. Police statement of Sandra Briggs dated 2 August 2004 *(previously disclosed to you on 10 October 2004).*

9. Exhibits of GMC statement of Code A dated 26 May 2008 *(previously disclosed to you on 3 July 2008)*

   a. Police statement dated 20 May 2005

10. Exhibits of GMC statement of Margaret Couchman dated 30 January 2008 *(previously disclosed to you on 23 July 2008)*

    a. Police statement dated 15 December 2004 made in relation to events involving Dr Barton

    b. Interview transcript dated 29 June 2000 (10.26 – 11.04 hrs)

    c. Interview transcript dated 29 June 2000 (11.17 – 11.56 hrs).

11. Exhibits of GMC statement of Tanya Cranfield dated 3 March 2008 *(previously disclosed to you on 14 May 2008)*

    a. Police statement dated 20 October 2004

12. Exhibits of GMC statement of Code A dated 17 July 2008 *(previously disclosed to you on 21 July 2008)*

a. Police statement dated 9 October 2003

b. Police statement dated 12 August 2004 made in relation to the care of Leslie Pittock.

c. Police witness statement dated 2 February 2005 made in relation to the care of Ruby Lake

13. Police statement of Code A dated 16 January 2006 *(previously disclosed to you on 10 October 2007).* GMC production statement to follow.

14. Police statement of Code A dated 7 July 2000 *(previously disclosed to you on 10 October 2007).*

15. Exhibits of GMC statement of Charles Stewart-Farthing dated 27 January 2008 *(previously disclosed to you on 30 May 2008)*

a. Police statement dated 10 May 2004

16. Exhibits of statement of Jeanette Florio dated 16 June 2005 *(previously disclosed to you on 10 October 2007.)*

17. Police statement of Sylvia Giffin dated 6 June 2000 *(previously disclosed to you on 10 October 2007).*

18. Police statement of Pamela Gell dated 25 July 2005 *(previously disclosed to you on 10 October 2007).*

19. Exhibits of GMC statement of Code A dated 28 March 2008 *(previously disclosed to you on 3 April 2008)*

a. Police statement dated 28 July 2003

b. Police statement dated 26 January 2005 (regarding patient Ruby Lake)

c. Police statement dated 13 May 2005 (general statement and regarding patient Arthur Cunningham)

d. Police statement dated 11 July 2005 (regarding patient Robert Wilson)

e. SH/5 - Statement dated 27 July 2005 (supplementary statement regarding patient Robert Wilson)

f. Police statement dated 1 February 2006 (regarding patient Geoffrey Packman)

g. Police statement dated 12 April 2006 (regarding medical equipment)

h. Documents relating to complaints about Dr Barton/Gill Hamblin

20. Exhibits of GMC statement of Code A dated 22 August 2008 *(previously disclosed to you on 18 December 2008)*

a. Letter dated 11 April 2002 addressed to Code A of the General Medical Council

b. Letter dated 11 April 2002 to Chief Constable Paul R Kernaghan detailing concerns

c. Copies of correspondence received from the General Medical Council between 15 April 2002 and 11 July 2002.

d. Copy of Detective Constable Robinson's officer's report dated 29 April 2004.

21. Police statement of Code A dated 17 March 2004 *(previously disclosed to you on 10 October 2007).* GMC production statement to follow.

22. Exhibits of GMC statement of Code A dated 28 January 2008 *(previously disclosed to you on 14 May 2008)*

a. Police statement dated 24 April 2008

23. Exhibits of GMC statement of Alan Lavender dated 24 March 2008 *(previously disclosed to you on 30 May 2008)*

a. Police statement dated 19 May 2004

24. Police statements of Code A dated 18 October and 30 November 2005 *(previously disclosed to you on 14 October 2007).*

25. Exhibits of GMC statement of Dr Code A dated 27 January 2008 *(previously disclosed to you on 14 March 2008)*

a. Police statement dated 17 June 2005

26. Transcripts of police interviews of Code A dated 1 and 22 June 2000 *(previously disclosed to you on 10 October 2007)*

27. Exhibits of GMC statement of Gillian McKenzie dated 21 June 2008 *(previously disclosed to you on 23 July 2008)*

    a. Police statement dated 27 April 1999.

    b. Transcript of first police interview dated 17 November 1999.

    c. Transcript of second police interview dated 17 November 1999

    d. Police statement dated 6 March 2000

    e. Investigation information form for the Commission for Healthcare Improvement

    f. Notes on the reverse side of A3 photocopies of the Gosport War Memorial medical records (and Dr Lord's report) made in 2004 after notes received from the police.

    g. Police transcript of handwritten letter to Superintendent Code A dated 19 January 2005 attaching comments on the Haslar medical records.

    h. Original notes and comments which formed complaint/questions to the Trust compiled with Lesley O'Brien

    i. Police document containing questions/comments and the Trust's response – handwritten annotations with response/comments

28. Exhibits of GMC statement of Code A dated 3 June 2008 *(previously disclosed to you on 16 June 2008)*

    a. Police statement dated 12 April 2005

29. Exhibits of GMC statement of Lesley O'Brien dated 3 April 2008 *(previously disclosed to you on 9 April 2008)*

    a. Police statement dated 31 January 2000

    b. Police statement dated 11 August 2004

    c. Photographs of 90th birthday party

    d. Fluid balance charts

e. Notes made whilst mother still alive

f. Letter dated 22 September 1998 from Portsmouth Healthcare NHS Trust

g. Response to letter dated 22 September 1998

h. Response to letter dated 22 September 1998 after further investigation

30. Exhibits of GMC statement of Betty Packman dated 2 January 2008 *(previously disclosed to you on 14 March 2008)*

a. Police statement dated 18 January 2006

31. Exhibits of GMC statement of Victoria Packman dated 18 May 2008 *(previously disclosed to you on 30 May 2008)*

a. Police statement dated 18 January 2006

32. Exhibits of GMC statement of Dr Code A dated 30 January 2008 *(previously disclosed to you on 14 March 2008)*

a. Police statement dated 21 July 2005

33. Exhibits of GMC statement of Dr Arugum Ravindrane dated 29 March 2008 *(previously disclosed to you on 30 May 2008)*

a. Police statement dated 24 June 2004 in relation to the care of Elsie Devine

b. Police statement dated 16 November 2005 in relation to the care of Robert Wilson

c. Police statement dated 25 November 2005 in relation to the care of Robert Wilson

d. Police statement dated 19 January 2006 in relation to the care of Geoffrey Packman

e. Police statement dated 23 March 2006 in relation to the care of Geoffrey Packman

34. Police Statement of Daniel Redfearn dated 22 January 2006 *(previously disclosed to you on 3 July 2008)*. GMC production statement to follow.

35. Exhibits of GMC statement of Ann Reeves dated 20 March 2008 *(previously disclosed to you on 3 July 2008)*

    a. Police statement dated 9 June 2004

    b. Police statement dated 16 June 2004

    c. Police statement dated 15 July 2004

36. Exhibit of GMC supplemental statement of Ann Reeves dated 16 November 2008 *(previously disclosed to you on 23 April 2009)*

    a. Cards and letters written by mother, Elsie Devine

37. Exhibits of GMC statement of Dr Richard Ian Reid dated 17 June 2008 *(previously disclosed to you on 18 December 2008)*

    a. Police statement dated 7 June 2000 regarding patient Gladys Richards

    b. Police statement dated 4 October 2004(1) regarding patient Elsie Devine

    c. Police statement dated 4 October 2004(2) regarding patient Elsie Devine

    d. Police statement dated 26 November 2004(1) regarding patient Elsie Devine

    e. Police statement dated 26 November 2004(2) regarding patient Elsie Devine

    f. Police statement dated 24 October 2005 regarding patient Sheila Gregory

    g. Police interview record dated 4 July 2006 (09:21-10:00 hrs)

    h. Police interview record dated 4 July 2006 (10:02-10:42 hrs)

    i. Police interview record dated 4 July 2006 (10:55-11:35 hrs)

    j. Police interview record dated 4 July 2006 (11:42-12:20 hrs)

    k. Police interview record dated 4 July 2006 (13:19-13:59 hrs)

    l. Police interview record dated 4 July 2006 (14:02-14:40 hrs)

    m. Police interview record dated 4 July 2006 (15:00-15:40)

38. Police statement of Sharon Ring dated 10 November 2005 *(previously disclosed to you on 14 December 2007)*

39. Exhibits of GMC statement of Pauline Robinson dated 2 June 2008 *(previously disclosed to you on 3 July 2008)*

    a. Police statement dated 21 July 2005

40. Exhibits of GMC statement of Shirley Sellwood dated 12 June 2008 *(previously disclosed to you on 16 June 2008)*

    a. Police statement dated 12 May 2005

41. Exhibits of GMC statement of Freda Shaw dated 25 February 2008 *(previously disclosed to you on 23 July 2008)*

    a. Police statement dated 12 June 2003 made in relation to the use of syringe drivers on the wards.

    b. Police statement dated 6 August 2004 made in relation to the care of Elsie Devine.

    c. Police statement dated 6 August 2004 made in relation to the care of Leslie Pittock.

    d. Police statement dated 15 March 2005 made in relation to the care of Arthur Cunningham.

    e. Police statement dated 14 April 2005 made in relation to the care of Robert Wilson.

    f. Police statement dated 11 July 2005 made in relation to the care of Sheila Gregory.

    g. Police statement dated 26 July 2005 made in relation to the care of Helena Service.

    h. Police statement dated 30 September 2005 made in relation to conversations with Shirley Hallman regarding the use of syringe drivers.

    i. Police statement dated 6 December 2005 made in relation to the care of Enid Spurgin.

42. Exhibits of GMC statement of Ernest Stevens dated 4 April 2008 *(previously disclosed to you on 30 May 2008)*

    a. Police statement dated 16 April 2004 (in relation to care)

    b. Police statement dated 16 April 2004 (in relation to operation date)

43. Exhibits of GMC statement of Dr Jane Tandy dated 19 June 2008 *(previously disclosed to you on 18 July 2008)*

    a. Police statement dated 20 December 2004

    b. Undated statement

44. Exhibits of GMC statement of Dr Joanna Taylor dated 14 July 2008 *(previously disclosed to you on 18 March 2008)*

    a. Police statement dated 14 July 2004

45. Exhibits of GMC statement of Anita Tubbritt *(previously disclosed to you on 24 July 2008)*

    a. Police transcript dated 28 June 2000

    b. Police witness statement dated 25 October 2004

    c. Police witness statement dated 1 December 2004

    d. Police witness statement dated 9 December 2005

    e. Police witness statement dated 27 April 2006

46. Exhibits of GMC production statement (to follow) of Beverley Turnbull *(exhibits previously disclosed 10.10.07):*

    (a) Police Statement dated 29 October 2002 (general concerns)

    (b) Police Statement dated 20 December 2004 (Devine)

    (c) Police Statement dated 24 January 2005 (Lake)

    (d) Police Statement dated 6 June 2005 (Cunningham)

(e) Police Statement dated 27 February 2006 (Spurgin)

(f) Police Statement dated 27 February 2006 (Packman)

(g) Report of Hospital Visit on 31 October 1991

(h) Letter dated 22 November 1991 from the RCN to Mrs Evans.

(i) Bundle of copy correspondence

47. Police statements of Lynda Wiles dated 8 November 2004 and 3 October 2005 *(previously disclosed to you on 10 October 2007).*

48. Exhibits of GMC statement of Iain Wilson *(previously disclosed to you on 10 October 2007).* GMC production statement to follow.

(a) Police statement dated 9 March 2004

(b) Police statement dated 28 February 2005

49. Police statement of Neil Wilson dated 13 April 2004 *(previously disclosed to you on 10 October 2007).*

50. Controlled Drugs Record Book *(previously disclosed to you on 16 July 2008)*

51. Admissions Records for Gosport War Memorial Hospital *(previously disclosed to you on 16 July 2008)*

52. Healthcare Commission (Files 1-4) *(previously disclosed to you on 4 April 2008)*

53. CHI Investigation into Gosport War Memorial Hospital *(previously disclosed to you on 4 April 2008)*

54. Colour copy of photographs of Room 3 Gosport Memorial Hospital *(previously disclosed to you on 8 February 2008)*

55. Generic Case Files 2, 3, 4, 5, 6 and 7 *(disclosed to you on 14 December 2007).*

56. Patient files of Cunningham, Wilson, Pittock, Lake, Spurgin, Wilkie, Page, Packman, Lavender, Richards and Devine *(disclosed to you on 10 October 2007)*

57. Expert Reports of Professor Gary Ford:

(c) Medico Legal Report dated 12 December 2001 *(previously disclosed to you on 8 February 2008)*

(d) Generic Report on the Principles of Care and Matters Specific to Gosport War Memorial Hospital dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(e) Patient A (undated) *(previously disclosed to you on 15 May 2009)*

(f) Patient B dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(g) Patient C dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(h) Patient D dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(i) Patient E dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(j) Patient F dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(k) Patient G dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(l) Patient H dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(m) Patient I dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(n) Patient J dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(o) Patient K dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

(p) Patient L dated 21 April 2009 *(previously disclosed to you on 23 April 2009)*

Annex C

Genera Medical Council

Dr Jane Barton

Schedule of Unused Materials

Medical Records *(previously disclosed on 28 March 2008)* **of**:

1. Victor Abbott
2. Denis Amey
3. Lilly Attree
4. Edith Aubrey
5. Ellen Baker
6. Charles Batty
7. Irene Brennan
8. Dennis Brickwood
9. Paula Brown
10. Margaret Burt
11. Stanley Carby
12. Edwin Carter
13. Edith Chilvers
14. Sidney Chivers
15. Hubert Clarke
16. Alice Clifford

17. Walter Clissold
18. James Corke
19. Arthur Cousins
20. Mary Ann Cox
21. Ronald Cresdee
22. Amey Denis
23. Cyril Dicks
24. Mary Donaghue
25. Kathleen Ellis
26. Harry Hadley
27. Charles Hall
28. Nora Hall
29. Edith Hill
30. Eileen Hillier
31. Alan Hobday
32. Phyllis Horn
33. Albert Hooper
34. Clifford Houghton
35. Thomas Jarman
36. Catherine Lee
37. Graham Leonard
38. Rhoda Marshall

39. Stanley Martin

40. Dulcie Middleton

41. Douglas Midford

42. Code A

43. Gwendolyn Parr

44. Code A

45. Margaret Queree

46. John Ramsay

47. Violet Reeve

48. James Ripley

49. Jack Ritchie

50. Elizabeth Rogers

51. Euphemia Skeens

52. Dorothy Stamford

53. Daphne Taylor

54. Silvia Tiller

55. Christina Town

56. Dorothy Vince

57. Frank Walsh

58. Walter Wellstead

59. Ivy Williamson

60. Jack Williamson

61. Norman Willis

62. Norma Windsor

Reports/Statements/Expert Summaries in relation to *(previously disclosed on 28 March 2008):*

1. Edith Aubrey

2. Henry Aubrey

3. Doreen Cox

4. Joan Ramsey

5. Elizabeth Rogers

6. Sylvia Tiller

7. James Corke

8. Mary Cox

9. Dorothy Stanford

10. Norman Willis

11. Margaret Burt

12. Code A

13. Mabel Leek

14. Euphemia Skeens

15. Rohoda Marsha

16. Pamela Brown

17. Harry Dumbleton

18. Wilfred Harrington

19. Doris Clements
20. Horace Smith
21. Mary Donaghue
22. Mary Benson
23. Olive Cresdee
24. Joan Hurnell
25. Frank Horn
26. Catharina Askew
27. Phyllis Horn

Dr Black's reports in relation to the following *(previously disclosed on 9 June 2008):*

1. Leslie Pittock
2. Elsie Lavender
3. Eva Page
4. Alice Wilkie
5. Gladys Richards
6. Ruby Lake
7. Arthur Cunningham
8. Robert Wilson
9. Enid Spurgin
10. Geoffrey Packman
11. Elsie Devine
12. Jean Stevens

Previous Medical Reports *(previously disclosed on 30 August 2007)*

1. Elsie Devine – reports of Dr Wilcock, Prof Black, Code A
2. Gladys Richards – reports of , Prof Livesley, Prof Black
3. Helena Service – reports of Prof Black, Dr Petch, Dr Wilcock
4. Sheila Gregory – reports of Prof Black, Dr Wilcock
5. Arthur Cunningham – reports of Prof Black, Dr Wilcock
6. Geoffrey Packman – reports of Code A Prof Black, Dr Wilcock
7. Alice Wilkie – reports of Code A
8. Eva Page – reports of Code A
9. Ruby Lake – reports of Dr Wilcock (x2), Prof Black
10. Leslie Pittock – reports of Dr Wilcock (x2), Prof Black
11. Robert Wilson – reports of Prof Baker, Prof Black, Code A
12. Elsie Lavender – reports of Prof Black, Dr Wilcock
13. Enid Spurgin – reports of Dr Redfearn, Prof Black, Dr Wilcock
14. Generic report of Professor McQuay

Medical Records and Patient Files of *(previously disclosed on 30 August 2007):*

1. Sheila Gregory
2. Helena Service

Other materials

1. Bundle of correspondence between FFW and the GMC witnesses *(previously disclosed to you on 29 August 2009)*
2. Bundle of draft reports prepared by Professor Ford *(previously disclosed to you on 23 April 2009)*

3. Draft report for Lesley Pittock prepared by Professor Ford *(previously disclosed to you on 15 May 2009)*

4. Witness folder Edna Purnell (previously *disclosed to you on 8 February 2008)*

5. Medical Report on the therapeutic use of controlled drugs by Professor Henry McQuay *(disclosed to you on 5 December 2007)*

6. Police List entitled 'FFW Statements' *(previously disclosed to you on 23 April 2009)*

7. Police List entitled 'Exhibits FFW' *(previously disclosed to you on 23 April 2009)*

8. Police List entitled 'Officers Report FFW' *(previously disclosed to you on 23 April 2009)*

9. Police List entitled 'Other Documents FFW' *(previously disclosed to you on 23 April 2009)*

10. Police List entitled 'Documents List' *(previously disclosed to you on 23 April 2009)*

Witness Statements

1. Police Statement of Code A dated 17 April 2004 *(previously disclosed to you on 10 October 2007)*

2. Police statement of Code A dated 31 January 2005 *(previously disclosed to you on 10 October 2007)*

3. GMC statement of Code A together with the following exhibit *(previously disclosed to you on 23 April 2009)*

    a. Police statements re-typed by FFW and dated 25 November 2008

4. GMC supplementary statement of Code A together with exhibit *(previously disclosed to you on 23 April 2009)*

    a. Police statements re-typed by FFW and dated 25 November 2008

5. GMC statement of Gillian Hamblin dated 25 March 2008 together with exhibits: *(previously disclosed to you on 30 May 2008)*

    a. Police statement dated 2 February 2003 (regarding general concerns raised by staff regarding syringe drivers)

b. Police statement dated 30 June 2004 (regarding Patient Elsie Devine)

c. Police statement dated 10 September 2004 (further statement regarding Patient Elsie Devine)

d. Police statement dated 11 June 2005 (regarding Patient Robert Wilson)

e. Police statement dated 30 September 2005 (further statement regarding Robert Wilson and general issues)

f. Police statement dated 10 September 2004 (regarding Patient Leslie Pittock)

g. Police statement dated 1 December 2004 (supplementary statements regarding Leslie Pittock and the use of drugs charts)

6. GMC statement of Code A dated 27 February 2008 together with exhibits *(previously disclosed to you on 14 March 2008)*

a. Police statement dated 12 February 2003

b. Police statement dated 13 October 2004

7. GMC statement of Dr Althea Lord dated 26 August 2008 together with exhibits *(previously disclosed to you on 5 September 2008)*

a. Police interview dated 27 September 2000 (tape 15:19-15:54 hours)

b. Police interview dated 27 December 2000 (tape 14:14-14:58 hours)

c. Report dated 22 December 1998

d. Police statement dated 28 September 2004 (regarding patient Leslie Pittock)

e. Police statement dated 10 December 2004 (regarding patient Elsie Devine)

f. Police statement dated 15 March 2005 (regarding patient Ruby Lake)

g. Police statement dated 13 May 2005 (regarding patient Arthur Cunningham)

h. Police statement dated 19 May 2005 (regarding patient Robert Wilson)

i. Police statement dated 12 October 2005 (regarding patient Arthur Cunningham – supplementary statement)

j. Police statement dated 27 January 2006 (regarding patient Ruby Lake – supplementary statement)

8. GMC statement of Dr Ian Reckless dated 18 March 2008 together with exhibit *(previously disclosed to you on 30 May 2008)*

   a. Police statement dated 15 July 2004

9. GMC statement of James Reeves dated 28 October 2008 together with exhibit *(previously disclosed to you on 16 December 2008)*

   a. Police statement dated 30 June 2005

10. GMC statement of Richard Samuel dated 3 April 2008 together with exhibit *(previously disclosed to you on 18 July 2008)*

    a. Integrated action plan and achievements

    b. 1988 – 1994 Executive Structure

    c. Service management structure dated 21 November 2000

    d. Fareham and Gosport Locality Division structure document dated 18 September 2001

    e. Patient flows diagram dated 24 October 2001

    f. Department of Medicine for Elderly Persons – Services provided

    g. Plan of Daedalus and Dryad wards

    h. Letter from Health Authority to Dr Barton dated 1 December 1980

    i. Job description for Clinical Assistant in Geriatric Medicine

    j. Dr Barton's application form for Clinical Assistant

    k. Letter from Health Authority to Dr Dr Barton dated 28 April 1998

11. GMC statement of Dr Judith Stevens dated 25 February 2008 together with exhibit *(previously disclosed to you on 4 April 2008)*

    a. Police statement dated 29 July 2004

12. GMC statement of Code A dated 6 June 2008 together with exhibit *(previously disclosed to you on 16 June 2008)*

    a. Police statement dated 24 January 2005.

13. Witness statement of Fiona Walker, dated 6 May 2009, together with exhibits (*copy enclosed*):

    a. Police statement dated 23 January 2003

    b. Police statement dated 19 October 2004

    c. Police statement dated 1 December 2004

    d. Police statement dated 1 December 2004

    e. Police statement dated 19 October 2005

    f. Police interview transcript dated 20 June 2000

14. Police Statement of Code A dated 31 May 2000 *(previously disclosed to you on 14 December 2007)*

15. GMC statement of Margaret Wigfall dated 19 July 2008 together with exhibits *(previously disclosed to you on 22 July 2008)*

    a. Police statement dated 11 October 2002

    b. Police statement dated 9 July 2004

    c. Police statement dated 30 November 2004

16. GMC statement of Code A dated 17 March 2008 together with exhibit *(previously disclosed to you on 18 March 2008)*

    a. Police statement dated 1 February 2003

Annex A

General Medical Council and Code A

Witness schedule

(DRAFT 12.5.09)

No.	Day	Surname	First Name	Job/Title	GMC Statement	Full or Read	Comments
PATIENT WITNESSES							
PT A - PITTOCK							
1	**Day 2** 9.6.09 a.m.	Wiles	Lynda	Daughter	Y	F	Code A spoken to witness – very distressed, partially agreed to attend no definite answer (?? witness summons)
2	9.6.09 a.m.	Briggs	Michael	Doctor	N – awaiting production statement	F	Contact made – willing to assist.
PT B – LAVENDER							
3	9.6.09 p.m.	Lavender	Alan	Son	Y	F	**Available. Agreed**
PT C – PAGE							
		NONE OTHER THAN EXPERT		-			
PT D – WILKIE							
4	**Day 3**	Jackson	Marilyn	Daughter	Y	F	Available. Agreed

GMC101215-0297

	10.6.09 a.m.						
PT E – RICHARDS							
5	10.6.09 a.m.	McKenzie	Gill	Daughter	Y		Efforts being made to obtain this witness. May call sister below instead.
6	10.6.09 a.m.	O'Brien	Lesley	Daughter	Y	F	**Available. - agreed**
Pt F – RUBY LAKE							
7	**Day 4** 11.6.09 a.m.	Mussell	Diane	Daughter	Y	F	**Not available. out of country**
8	11.6.09 a.m.	Robinson	Pauline	Daughter	Y	F	**Available. agreed**
9	11.6.09 a.m.	Bindloss	Adele	Nurse	N - None expected	C	Unable to trace - willing to read.
10	11.6.09 p.m.	Coltman	Timothy	Doctor	Y	C	Available. Agreed
PT G – ARTHUR CUNNINGHAM							
11	**Day 5** 12.6.09 a.m.	Farthing	Charles	Step-son	Y	F	**Available. agreed**
12	12.6.09 a.m.	Sellwood	Shirley	Friend	Y	F/C	Witness unwell. Possible video-link
13	12.6.09 p.m.	Gell	Pamela	Nurse	N- awaiting production statement	F/C	Contact made – willing to assist
Pt H – ROBERT WILSON							
14	**Day 6** 15.6.09 a.m.	Wilson	Iain	Son	N- awaiting revised statement	F	**Available. agreed**
15	15.6.09 a.m.	Wilson	Neil	Son	N - None expected	F	Witness in Bahrain, may apply to read – to discuss
16	15.6.09 p.m.	Kimbley	Gillian	Wife	Y	F	**Available. agreed**

GMC101215-0298

17	**Day 7** 16.6.09 a.m.	Code A		Doctor	Y	C	Will read by agreement. Out of country until 29th June.
18	16.6.09 a.m.	Peters	Ewenda	Doctor	Y	F	Available. agreed
Pt I – ENID SPURGIN							
19	16.6.09 p.m.	Jewel	Carl	Nephew	N- production statement sent – unlikely to be returned.	F/C	Out of Country
20	16.6.09 p.m.	Redfearn	Daniel	Ortho Consultant	N- awaiting production statement	F/C	Available. Agreed
Pt J – GEOFFREY PACKMAN							
21	**Day 8** 17.6.09 a.m.	Packman	Betty	Wife	Y	F	**Available. Agreed**
22	17.6.09 a.m.	Packman	Victoria	Daughter	Y	F	**Available. Agreed**
23	17.6.09 p.m.	Code A		SHO	N - awaiting production statement	C	Keen to assist but nervous Code A to contact again when returns from annual leave 26.05.09
Pt K – ELSIE DEVINE							
24	**Day 9** 19.6.09 a.m.	Reeves	Ann	Daughter	Y	F	This witness has to be video-linked from KL. Available before 14.06.09. Code A to discuss with Code A
25	19.6.09 p.m.	Taylor	Joanna	Doctor	Y	F	Efforts being made to obtain this witness but can we agree to read in part? Can do 16.06.09 or 22.06.09.

GMC101215-0299

26	**Day 10** 22.6.09 a.m.	Cranfield	Tanya	Doctor	Y	F	**Available. agreed**
Pt L – JEAN STEVENS							
27	22.6.09 a.m.	Stevens	Ernest	Husband	Y	C	Not available. Would read in part if requested.
28	22.6.09 a.m.	Bailey	June	Daughter	Y	F	Efforts being made to obtain this witness. (??Witness summons) (let out 18.05.09)

GMC101215-0300

NURSES							
		NAME	**1ST NAME**	**GMC ?**	**Relevant to -**	**FULL OR READ**	**COMMENTS**
29	**Day 11** 23.6.09	Ball	Carol	Y*	Left in 1991 – five years before charges but deals with meeting with management where concerns were raised over use of syringe drivers, nothing changed	F	Code A spoke to husband Code A to call back (??Witness summons) (let sent 18.05.09 – no response to date)
30	23.6.09	Beed	Philip	Y	General Evidence and Pt E Gladys Richards	F	**Available. agreed**
31	23.6.09 2.pm.	Barrett	Lynn	Y	Pt A - Pittock, Pt F - Lake, Pt K - Devine, Pt I – Spurgin	F	**Available. Agreed (very nervous following CI – (?? witness summons)**
32	**Day 12** 24.6.09	Couchman	Margaret	Y	Pt E - Richards, Pt B- Lavender, Pt E Richards	F	**Only available on 15/16 June 2009**
33	24.6.09	Douglas	Tina	Y	Pt A Pittock, Pt F – Lake.	F	Available. Agreed.
34	24.6.09	Florio	Jeanette	N - None expected	Pt H - Wilson, Pt J – Packman	C	Will agree to read in part
35	24.6.09 2 p.m.	Giffin	Sylvia	N - None expected	General and Pt E Richards	C	Will agree to read in part
36	**Day 13** 25.6.09	Hallman	Shirley	Y	Pt H - Wilson, Pt F - Lake, Pt G - Cunningham, Pt J - Packman	F	**Available. agreed**
37	25.6.09	Ring	Sharon	N - None expected	Pt F - Lake, Pt A - Pittock, Pt – G Cunnigham	F	Will agree to read in part
38	25.6.09 2 p.m.	Lloyd	Ingrid	N – None expected	Pt G – Cunningham	F	Will agree to read in part
39	**Day 14** 26.6.09	Shaw	Freda	Y	Pt I - Spurgin, Pt H - Wilson, Pt A - Pittock, Pt K - Devine, Pt G - Cunningham	F	**Available. agreed**

GMC101215-0301

40	26.6.09.	Turnbull	Beverley	N- awaiting FFW statement	Pt J - Packman, Pt F - Lake, Pt G - Cunningham, Pt K - Devine, Pt I - Spurgin,	F	Available. Agreed
41	**Day 15** 29.6.09	Tubbritt	Anita	N - awaiting production statement	Pt K - Devine, Pt F - Lake, Pt I - Spurgin, Pt J – Packman	F	**Available. (let sent 18.05.09)**
DOCTORS							
42	29.6.09	Ravindrane	Arumugam	Y	Pt H - Wilson, Pt J - Packman, Pt K - Devine	F	Available. Agreed
43	29.6.09	Banks	Victoria	Y	Pt A - Pittock, Pt G - Cunningham	F	Available. Agreed
CONSULTANTS							
44	29.6.09	Tandy	Jane	Y	Pt A - Pittock, Pt J - Packman	F	Available. Agreed
45	**Day 16** 30.6.09	Reid	Richard	Y	Pt K - Devine, Pt E - Richards, Pt I - Spurgin, Pt J - Packman	F	Available. Agreed
POLICE							
46		Yates	Christopher			C	To produce interviews of Code A only
47		Quade	Geoffrey			C	A/A
EXPERT							
48	**Day 16** 30.6.09 – 7.7.09	Ford	Gary	Y		F	Not available on 1.7.09 (Reading Day?)

GMC101215-0302

WITNESSES (Other than nurses) WHO HAVE MADE GMC STATEMENTS NOT BEING CALLED BY GMC							
		Thomas	Elizabeth	Physio	Y	Pt B- Lavender	
		Barrett	David	Doctor	Y	Pt F - Lake	
		Clemow	Ruth	Nurse	Y	Pt H - Wilson	
		Reckless	Ian	Doctor	Y	Pt K - Devine	
		Stevens	Judith	Doctor	Y	Pt K - Devine	
		Reeves	James	Son	Y	Pt K - Devine	
		Watling	Jeffrey	Pharmacist	Y		
		Lord	Althea	Consultant	Y	Pt H - Wilson, Pt F - Lake, Pt A - Pittock, Pt K - Devine, Pt G - Cunningham, Pt E - Richards, Pt B- Lavender, Pt C - Page, Pt D - Wilkie	

NURSES FROM WHOM POLICE AND OR GMC STATEMENTS WERE OBTAINED BUT ARE NOT TO BE CALLED BY THE GMC						
		NAME	**1ST NAME**	**GMC ?**	**Relevant to -**	**COMMENTS**
		Astridge	Yvonne	N	Pt B- Lavender	
		Barker	Carol	N	Pt K - Devine, Pt H - Wilson, Pt G - Cunningham	
		Bell	Elizabeth	N	Pt K - Devine	
				N	Pt B- Lavender	
				N	Pt H - Wilson, Cunningham, Pt J - Packman, Pt I – Spurgin,	
				N	Pt B- Lavender, Pt G - Cunningham	
				N	Left Hospital in 1995	
				N	Pt K - Devine, Pt B- Lavender, Pt H - Wilson, Pt I - Spurgin,	
				N	Pt K - Devine, Pt F - Lake	

Code A

GMC101215-0303

		Code A	N	Pt B- Lavender	
			N	Pt K - Devine.	
			N	Pt J – Packman	
			Y	Pt H - Wilson, Pt A - Pittock, Pt K - Devine, Pt G - Cunningham, Pt I - Spurgin, Pt J - Packman	
			N	Pt B- Lavender	
			Y	Pt B- Lavender	
			N	Pt E - Richards, Pt B- Lavender	
			N	Pt A - Pittock, Pt B- Lavender	
			N		
			N	Pt H – Wilson	
			N	Pt G - Cunningham, Pt I - Spurgin	
			N	Pt I – Spurgin	
			N		
			N		
			N		
			N		
			N	Pt B- Lavender	
			Y	Pt B- Lavender, Pt A - Pittock, Pt G - Cunningham, Pt I - Spurgin	
			N	Pt F - Lake, Pt H - Wilson,	
			Y	Pt B- Lavender, Pt K - Devine	
				Pt B- Lavender.	
			Y		
			N	Pt K - Devine	
			N		
			Y		

GMC101215-0304

Disclose chronology Tom.

↳ 3 columns
Date Incoming Docs.

Dates - various - disclosed on.

Code A rec e'sheets
what did we have see sched 1

key docs. - 6th

; Bakers rept - email - sent on to Def.

CH1 - trip. HCC. - when disclosed.
↳ sched.

Addition from police.

↳ emails dtd police - problems with emails.

wits generally

CInquest.

Rochester material

Ford expt / Black. -

check what AHO / TET - asked from Police.

email list re costs.

Trust (2).

MDU - letter proposed answers. Up RC to follow up.

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3 x copies (4) Not further copies. at