



Northern Ireland Social Care Council

NISCC (Conduct) Rules 2007

October 2007

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Northern Ireland Social Care Council (Conduct) Rules 2007

The Northern Ireland Social Care Council, in exercise of its powers under sections 6 and 18 of the Health and Personal Social Services Act (Northern Ireland) 2001, and of all other powers enabling the Council in that behalf, and having consulted such persons as appear to the Council to be appropriate, and with the consent of the Department of Health, Social Services and Public Safety, hereby make the following Rules:

Arrangement of Rules

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Part 1

Introduction

Citation and commencement

1. (1) These Rules may be cited as the Northern Ireland Social Care Council (Conduct) Rules 2007 and shall come into force on 10 December 2007.

- (2) The Northern Ireland Social Care Council (Conduct) Rules 2005 are hereby revoked.

Interpretation

2. (1) In these Rules, unless the context otherwise requires:
 - “**the Act**” means the Health and Personal Social Services Act (Northern Ireland) 2001;
 - “**appropriate person(s)**” means a Council Officer, solicitor or other person chosen by the Council to carry out further investigations into complaints;
 - “**approved course**” means a course for persons wishing to become social workers, approved by the Council and specified in SCHEDULE 1 to the NISCC (Registration) Rules 2005;
 - “**the Conduct Procedure**” is the procedure set out in SCHEDULE 2 (other than the procedure set out in paragraph 28 of that SCHEDULE);
 - “**Complainant**” means any person (including an employer or institution) who makes a complaint against the Registrant and thereby has an interest in the outcome of the proceedings;
 - “**the Charge**” means the allegations against the Registrant which are formally set out in the Notice of Hearing;
 - “**the Council**” means the Northern Ireland Social Care Council;

“the Employer” means any employer of a social worker and/or social care worker (working in the capacity of a social worker or social care worker);

“the Health Procedure” is the procedure set out in Paragraph 28 of

“ the Northern Ireland Postqualifying Education and Training Partnership” means a body approved by the Council to determine and manage the PQ arrangements set out in the PQ Framework

SCHEDULE 2;

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

“Institution” means an establishment where an applicant has accepted an offer from, has been admitted by, or attended an approved course;

“Lay Person” means a person who is not, and has not within 5 years of an appointment to the Conduct Committee ever been -

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

“Legal Adviser” means a barrister or a solicitor who has been qualified to practise in Northern Ireland for not less than 10 years and carries out the functions set out in paragraph 9;

“Medical Adviser” means a registered medical practitioner appointed by the Council and carries out the functions set out in paragraph 10;

“Minor Road Traffic Offence” means any driving related offence for which the penalty received was either, not in excess of three penalty points or, a fine not exceeding level 2 on the standard scale (£500);

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

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

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

“Register” means the Register maintained under section 3 of the Act;

“Registrant” means a person registered in the Register;

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

“Student” means an applicant or registrant who has been admitted by, or accepted an offer from, an institution to participate in an approved course, or who is participating in such a course;

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

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

(a) in these Rules:

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

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

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

Service of documents

3. In these Rules:

- (a) any reference to the sending of a notice to a Registrant or to a former Registrant is a reference to the sending of a notice by registered post or by a postal service in which delivery or receipt is recorded to the Registrant's or former Registrant's address in the Register or, if the last-known address differs from the address in the Register, the Registrant or former Registrant's last-known address;
- (b) where any notice is to be sent to a Registrant or former Registrant, it shall be treated as having been served on the day after it was posted.

Part II

Committees

Constitution of Committees

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

Function of Committees

Preliminary Proceedings Committee

5. (1) It shall be the duty of the Preliminary Proceedings Committee to consider any complaint(s) against a Registrant referred to it and decide:
 - (a) whether the complaint(s) should be referred to the Conduct Committee, under the Conduct Procedure or the Health Procedure;
 - (b) whether it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the Registrant concerned, for the Committee to make an Interim Suspension Order;
 - (c) whether no further action should be taken in respect of the complaint.
- (2) Subject to (3) below, where the Preliminary Proceedings Committee determines to refer a complaint to the Conduct Committee, it shall refer the complaint under the Conduct Procedure.

- (3) Where the Preliminary Proceedings Committee considers that the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health, it shall refer the complaint to the Conduct Committee under the Health Procedure.
- (4) The Preliminary Proceedings Committee shall also consider applications made by the Council, at any time, that an Interim Suspension Order should be imposed on the Registrant's registration, on the grounds that such Order is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the Registrant concerned.
- (5) Where the Preliminary Proceedings Committee decides that it is necessary to impose an Interim Suspension Order on a Registrant's registration, the initial duration of such Order shall not exceed six months.
- (6) Where the Preliminary Proceedings Committee decides to impose a further Interim Suspension Order in accordance with the provisions set out in paragraph 12 of SCHEDULE 1, the total period of suspension shall not exceed a period of 2 years, including the period specified in the original Order.

Conduct Committee

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

Restoration Committee

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

Procedure of Committees

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

Membership and quorum of Committees

7. (1) The Council shall maintain a pool of members from which members of the individual Committees hearing a particular case shall be appointed.
- (2) Each Committee shall consist of up to five members, appointed by the Council.
- (3) The quorum of each Committee shall be five.
- (4) Each Committee shall include two Lay Persons as members.
- (5) The Council shall appoint a Chair of each Committee. The Chair shall be a Lay Person and shall not be a member of the Council.
- (6) The Chair of the Council shall not sit as a member on any Committee.

- (7) The Council shall endeavour to appoint to each Committee, two members who are registered in the same part of the Register as the Registrant whose case is under consideration. Where the Council is unable to appoint two such members, the Council shall ensure that a member is appointed to the Committee who has experience or understanding of the area of social work or social care work, practised by the Registrant whose case is under consideration, unless the Registrant is registered only in the part of the Register for students.
- (8) Members of each Committee shall be appointed for a period not exceeding 4 years and shall be eligible for re-appointment for a further period not exceeding 2 years.
- (9) No member of any Committee shall sit as such on the hearing of a Registrant's case, if that member has previously been concerned with the case.
- (10) Notwithstanding (9) above, members of the Preliminary Proceedings Committee may sit as such at both the initial and subsequent considerations of a Registrant's case by that Committee.

Voting

8. Decisions of the Preliminary Proceedings Committee and the Restoration Committee shall be taken by simple majority. Where a Conduct Committee is deciding whether a registrant should be removed from the Register, the decision of the Committee shall be taken by a majority of four members to one member. No Chair of any Committee may exercise a casting vote. Any abstention shall be deemed to be a vote in favour of the Registrant.

The Legal Adviser

9. (1) A Legal Adviser shall be present at the sitting of each Committee. The Legal Adviser shall also be present whenever a Committee deliberates in private.
- (2) The role of the Legal Adviser shall be to advise a Committee on questions of law, and to ensure that proceedings before a Committee are conducted fairly. To this end, the Legal Adviser shall inform a Committee immediately of any irregularity in the conduct of proceedings before that Committee.
- (3) Where the proceedings of a Committee are held in private, that Committee shall maintain a record of any advice tendered by the Legal Adviser.
- (4) Where the proceedings of a Committee are held in public, the advice of the Legal Adviser shall be given before the Parties. Any advice given by the Legal Adviser during the private deliberations of the Committee shall subsequently be repeated before the Parties.
- (5) The Parties shall have the opportunity to make representations on the contents of the advice given by the Legal Adviser. The Legal Adviser will then assess whether the advice tendered requires to be altered in the light of the submissions made by the Parties and will advise the Committee accordingly.
- (6) The Legal Adviser shall not be entitled to vote.

Medical Adviser

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

Clerk to the Committee

11. (1) Each Committee shall be assisted by a Clerk who shall be responsible for the administrative arrangements for the hearing.

- (2) The Clerk shall not participate in the decision making of the Committee.

Part III

Complaints

Procedure upon receipt of information about a Registrant

12. (1) On receipt of information about a Registrant, an officer of the Council shall first consider whether such information is capable of amounting to a complaint.

- (2) Information shall only be considered to be capable of amounting to a complaint where such information:
 - (a) relates to an identifiable Registrant; and
 - (b) makes a specific allegation or allegations of misconduct against the Registrant; or
 - (c) relates to the circumstances specified in Rule 13 (c) below.

- (3) Where the information is capable of amounting to a complaint, the Council shall send the Complainant a copy of the Council's guidance about making a complaint, and a Complaint Form. The Council shall also inform the Complainant of alternative methods of resolving a complaint, including mediation or remedies available through a Registrant's Employer or other Regulatory Bodies.

- (4) For the purpose of establishing whether any information received is capable of amounting to a complaint, the Council may make such preliminary inquiries as it considers necessary in the circumstances, including seeking further information or clarification from the Registrant, the Registrant's Employer, the Complainant and any other source deemed appropriate.

- (5) Where the information received is not capable of amounting to a complaint within the meaning of paragraph (2) above, the Council shall inform the provider of the information that no further action will be taken and that the matter will be closed.
- (6) Upon confirmation that the information received is capable of amounting to a complaint, and that the Complainant wishes to proceed with the complaint, the Council shall refer the complaint to the Preliminary Proceedings Committee for consideration.
- (7) Where the Council has received information about a Registrant, and that Registrant is already the subject of an inquiry or an investigation into the circumstances of the complaint, the Council may defer further investigation or referral of the complaint to the Preliminary Proceedings Committee until that inquiry or investigation has been concluded.
- (8) Where the Council receives information that a Registrant has committed a minor road traffic offence, the Council shall not refer the matter to the Preliminary Proceedings Committee, unless the circumstances leading to the offence appear to the Council to raise a question as to whether the Registrant has committed misconduct.
- (9) The Council reserves the right to refer any matter to the Preliminary Proceedings Committee having regard to all the relevant circumstances.

Part IV

Removal and Suspension from the Register

13. (1) The circumstances in which a Registrant may be removed or suspended from the Register are:
- (a) that the Conduct Committee has made a finding of Misconduct against the Registrant (including a finding that the Registrant has failed to comply with conditions imposed under Section 5(1) of the Act, or that the Registrant has secured registration by fraud);
 - (b) that a Charge of Misconduct against the Registrant has been referred to the Conduct Committee and the Registrant has been found unfit to plead;
 - (c) that the Registrant has been convicted (at any time) in the United Kingdom of a criminal offence or has been convicted (at any time) elsewhere of an offence which, if committed in the United Kingdom would constitute a criminal offence, whether while registered or not.

Public Interest Immunity

14. Notwithstanding any reference in the Schedules to these Rules regarding disclosure of information or documents, where the Council considers that disclosure should not be provided on the grounds of Public Interest Immunity, it shall apply to the Court for directions.

..... <i>Serg. H. ...</i> (Chair, Northern Ireland Social Care Council)
..... <i>30th November 2007</i>Date
The Department of Health, Social Services and Public Safety hereby consents to these Rules.
..... <i>[Signature]</i>(Senior Officer, DHSSPS).
Dated this <i>10</i> day of <i>December</i> two thousand and seven

Schedule 1

Procedure of the Preliminary Proceedings Committee

Arrangements of Paragraphs

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Interpretation

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

Public or private meetings

2. (1) Subject to (2) below, the proceedings of the Committee shall be held in private.

(2) Where the Committee is considering whether or not to impose an Interim Suspension Order on the Registrant's registration, the Committee may sit in public, if the Registrant so requests.

Initial consideration by the Committee

3. (1) Not less than 7 days before the initial consideration of the case, provided that in exceptional circumstances this period may be shortened, the Council shall provide the Clerk with:
 - (a) a summary of the facts alleged in the complaint;
 - (b) a copy of the signed Complaint Form;
 - (c) any relevant documents or witness statements;
 - (d) recommendations for disposal;and the Clerk shall, as soon as may be, serve copies of the items referred to at (a) – (d) above on the members of the Preliminary Proceedings Committee for the initial consideration of the case.

(2) At the initial consideration of a Registrant's case, the Committee shall first consider whether any complaint referred to it calls into question the suitability of the Registrant to remain on the Register.

- (3) Where the Registrant has been subject to investigation by the Registrant's Employer or any other body, and that information is made available to the Committee, the Committee shall pay high regard to the information received, in its consideration as to whether the complaint calls into question the suitability of the Registrant to remain on the Register, provided it is satisfied that the information is reliable.
- (4) Where the complaint does not call into question the suitability of the Registrant to remain on the Register, the Committee shall take no further action and the Clerk shall inform the Complainant accordingly, in writing.
- (5) Where the Committee has determined, in its view, that a complaint calls into question the suitability of the Registrant to remain on the Register, the Committee shall adjourn its consideration of the matter to a second meeting.
- (6) The Parties shall not be present during the initial consideration of complaints by the Committee.
- (7) The Committee may adjourn its proceedings at any stage for the purposes of seeking further information or for any other purpose.

Notice of Referral

4. (1) No later than 28 days before the second consideration of the Registrant's case, the Clerk shall send the Registrant and the Council a Notice of Referral.

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

- (3) The Notice of Referral shall:
 - (a) set out the complaint which calls into question the Registrant's suitability to remain on the Register;
 - (b) invite the Registrant to make written representations upon the complaint within 14 days of service of the Notice;
 - (c) inform the Registrant that the Committee may, at its discretion, allow the Registrant to attend the meeting and make oral submissions in person or through a representative. In exceptional circumstances, and at its discretion, the Committee may allow the Registrant to give oral evidence;
 - (d) inform the Registrant of the date, time and venue of the hearing;
 - (e) inform the Registrant that the Committee, and the Council, may seek further information about the complaint from the Registrant's Employer (if any), where the Registrant is registered in the part of the Register for Students, the institution, or other source, and that the Council may instruct an appropriate person(s) to carry out any further Investigations.

Second consideration by Committee

5. (1) At the second or any subsequent consideration of the Registrant's case, the Committee shall consider the complaint against the Registrant and any

information obtained from the Registrant's Employer, where the Registrant is registered in the part of the Register for Students, the institution, or other source.

- (2) The Committee shall then consider the Council's recommendations for disposal together with any further documentation provided by the Council, and any written representations and documentation provided by the Registrant.
- (3) Any documentary evidence to be considered by the Committee, shall normally be lodged with the Clerk, no later than 7 days before the meeting.
- (4) Where the Registrant is to make oral submissions, or in exceptional circumstances give oral evidence, the Registrant may be represented by-
 - (a) solicitor; or
 - (b) counsel; or
 - (c) a representative from the Registrant's trade union; or
 - (d) a representative from the Registrant's professional body.
- (5) The Committee may, at its discretion, permit the Registrant to be represented by a person other than that listed in (4) above.
- (6) Where the Registrant is to make oral submissions, or in exceptional circumstances give oral evidence, the Council's case may be presented to the Committee by an Officer of the Council, or by a solicitor, or counsel.

Disposal

6. (1) At the second or subsequent hearing of the Registrant's case, the Committee may:
 - (a) refer the case to the Conduct Committee;
 - (b) impose an Interim Suspension Order on the Registrant's registration, if satisfied that such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the Registrant;
 - (c) direct that further investigations should be undertaken and adjourn the matter;
 - (d) take no further action and conclude the case.

- (2) The Committee shall not refer a complaint to the Conduct Committee unless after robust consideration of the evidence provided, it is satisfied that there is admissible, substantial and reliable evidence to provide a real prospect of a finding of Misconduct in relation to the complaint.

- (3) Where the Committee determines that a complaint shall not be referred to the Conduct Committee, the Clerk shall send written notification, with the reasons for the Committee's decision, to the Registrant, the Council, and the Employer (if any) and where the Registrant is registered in the part of the Register for Students, the institution.

Notice of Transfer

7. (1) Where the Committee has determined that the case should be transferred to the Conduct Committee, the Clerk shall send a Notice of Transfer to:
 - (a) the Registrant;
 - (b) the Council;
 - (c) the Registrant's Employer (if any);
 - (d) where the Registrant is registered in the part of the Register for Students, the institution.

- (2) The Notice of Transfer shall:
 - (a) give reasons for the Committee's decision;
 - (b) state whether the case has been transferred to the Conduct Committee under the Conduct Procedure or the Health Procedure, and the reasons why.

- (3) Where the Committee has determined that the Health Procedure should be followed, the Notice of Transfer shall additionally invite the Registrant to agree within 14 days from the date on which the Notice is sent:
 - (a) to be examined (at the Council's expense) by a Medical Adviser nominated by the Council; and
 - (b) that such Medical Adviser provide the Conduct Committee with a report on whether the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health.

Notice to Complainant

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

Further investigation by the Council

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

Cancellation of hearing

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

Interim Suspension Orders

11. (1) Where, at the initial or any subsequent hearing, the circumstances of the case are such that the Committee considers that an Interim Suspension Order may be necessary, or an application for an Interim Suspension Order is made by the Council, the Notice of Referral shall additionally:
 - (a) inform the Registrant of the right to attend the hearing;
 - (b) inform the Registrant of the time and venue for the hearing;

- (c) request the Registrant to inform the Committee whether the Registrant wishes the proceedings to be heard in private or in public;
- (d) provide the Registrant with a brief statement of the matters which appear to raise the question whether-
 - (i) the Registrant's registration should be suspended, and
 - (ii) why such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the Registrant;
- (e) inform the Registrant that the Committee may make an interim suspension order;

- (f) inform the Registrant of the rights to give evidence in person, to call witnesses, and to cross examine any witnesses called by the Council;
- (g) inform the Registrant of the Registrant's right to make oral submissions to the Committee in person or to be represented by:
 - (i) solicitor; or
 - (ii) counsel; or
 - (iii) a representative from the Registrant's Trade Union; or
 - (iv) a representative from the Registrant's Professional Body; or
 - (v) where the Registrant is registered in the part of the Register for Students, a representative from a Student Body.

- (h) request confirmation as to whether the Registrant intends to:
 - (i) attend the hearing;
 - (ii) be represented at the hearing.

- (2) Where an urgent application for an Interim Suspension Order is made by the Council on the grounds of protection of the public, the Committee may dispense with service of the Notice of Referral and may reconvene for second consideration of the matter as soon as practicable.
- (3) Notwithstanding paragraph (2) above, the Committee shall not impose an Interim Suspension Order on a Registrant's registration without first giving the Registrant notice of such intention as is reasonable in all the circumstances of the case, and allowing the Registrant, or the Registrant's representative, the opportunity to make oral submissions and written representations to the Committee. If necessary, the Committee shall adjourn for this purpose.
- (4) In addition to the procedure set out in paragraph (5) below, paragraphs 5, 9(2) and (3), 10, 13, 14, 19 and 28 of SCHEDULE 2 shall apply where the Committee is considering whether or not to make an Interim Suspension Order.
- (5) Where the Committee is considering whether or not to make an Interim Suspension Order, the order of proceedings shall be as follows:
 - (a) The Presenter shall outline the facts of the case and set out the reasons why the Registrant's registration should be made subject to an Interim Suspension Order, together with any evidence in support.
 - (b) The Registrant, or the Registrant's representative (if present) shall set out the reasons why such application should not be granted by the Committee, together with any evidence in support.

- (c) The Committee shall obtain advice from the Legal Adviser.
 - (d) The Committee shall deliberate in private
 - (e) The Committee shall determine the application and announce its decision, and the reasons for that decision, in the presence of the Parties.
- (6) Within 7 days of the conclusion of the hearing, the Clerk shall send a Notice of Decision to:
- (a) the Registrant;
 - (b) the Council;
 - (c) the Employer (s) (if any);
 - (d) where the Registrant is registered in the part of the Register for Students, the institution, and
 - (e) where an interim suspension order has been imposed, the Northern Ireland Post qualifying Education and Training Partnership, if the Registrant is enrolled with that partnership.
- (7) The Notice of Decision shall:
- (a) record any advice given by the Legal Adviser or Medical Adviser;
 - (b) set out the Committee's decision;
 - (c) set out the reasons for the Committee's decision;
 - (d) where an Interim Suspension Order has been imposed, set out the period of suspension beginning on the date on which the Order is made;
 - (e) inform the Registrant of the right of appeal to the Care Tribunal.

Review of Interim Suspension Orders

12. (1) The Council or any person in respect of whom an Interim Suspension Order has been made, may request the Preliminary Proceedings Committee to review the Order at a review hearing.
- (2) Save in exceptional circumstances, the Committee shall not be obliged to review an Interim Suspension Order until 3 months after the date on which the Order was made.
- (3) Where the Committee decides to review an Interim Suspension Order, a Notice of Review shall be sent to the Registrant and the Council not less than 28 days before the meeting.
- (4) The Notice of Review shall:
 - (a) inform the Registrant of the right to attend the hearing;
 - (b) inform the Registrant of the time and venue for the hearing;
 - (c) request the Registrant to inform the Committee whether the Registrant wishes the proceedings to be heard in private or in public;
 - (d) provide the Registrant with a brief statement of the matters which appear to raise the question whether:
 - (i) the Registrant's registration should be suspended; and
 - (ii) why such action is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the Registrant;
 - (e) inform the Registrant of the rights to give evidence in person, to call witnesses and to cross examine any witnesses called by the Council;

- (f) inform the Registrant of the right to make oral submissions to the Committee in person or to be represented by;
 - (i) solicitor; or
 - (ii) counsel; or
 - (iii) a representative from the Registrant's Trade Union; or
 - (iv) a representative from the Registrant's Professional Body; or
 - (v) where the Registrant is registered in the part of the Register for Students, a representative from a Student Body.
 - (g) request confirmation as to whether the Registrant intends to:
 - (i) attend the hearing;
 - (ii) be represented at the hearing.
- (5) The procedure at the review hearing shall be the same as at the original hearing.
- (6) After reviewing an Interim Suspension Order under paragraph (1) the Committee may:
- (a) continue the Order;
 - (b) revoke the Order;
 - (c) impose a further Order, to commence upon the expiry of the existing Order.
- (7) Within 7 days of the conclusion of the review hearing, the Clerk shall send a Notice of Decision to:
- (a) the Registrant;
 - (b) the Council;

- (c) the Registrant's Employer (s) (if any);
 - (d) where the Registrant is registered in the part of the Register for Students, the institution; and
 - (e) the Northern Ireland Post Qualifying Education and Training Partnership, if the Registrant is enrolled with the Partnership.
- (8) The Notice of Decision shall contain the matters set out in paragraph 11(7) above.
- (9) The Committee shall not extend or further extend an Interim Suspension Order for a period longer than 2 years.
- (10) At the conclusion of the review hearing, the Clerk shall send a Notice of Decision to:
- (a) the Registrant;
 - (b) the Council;
 - (c) the Registrant's Employer(s), (if any);
 - (d) where the Registrant is registered in the part of the Register for Students, the institution; and
 - (e) the Northern Ireland Post Qualifying Education and Training Partnership, if the Registrant is enrolled with that Partnership.

Schedule 2

Procedure of the Conduct Committee

Arrangement of Paragraphs

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Interpretation

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

Pre-hearing review

2. (1) No later than 28 days after the matter has been referred to the Conduct Committee, the Council shall convene a pre-hearing review and shall invite the Parties to attend. The Council and the Registrant may attend the pre-hearing review in addition to any representatives acting on their behalf.
 - (2) The Council shall authorise a Legal Adviser to conduct the pre-hearing review, and members of the Committee shall not attend the pre-hearing review.
 - (3) The pre-hearing review may be conducted by telephone conferencing or by such method as is agreed between the Parties and the Legal Adviser.
 - (4) A record of the directions issued by the Legal Adviser, any admissions, and decisions taken at the proceedings shall be maintained by the Clerk.
 - (5) The Registrant may attend in person or be represented by the persons set out in paragraph 10 below.
 - (6) The following matters shall be considered at the pre-hearing review:
 - (a) draft Charge against the Registrant;
 - (b) any admissions of facts;
 - (c) whether the Registrant wishes to admit Misconduct;

- (d) the number of witnesses to be called (if any);
 - (e) whether special provisions should be made for vulnerable witnesses at the hearing;
 - (f) whether expert evidence is to be adduced;
 - (g) whether the health of the Registrant will be raised as an issue in the proceedings, and if so, whether a report from a Medical Adviser should be obtained;
 - (h) any dates on which the Registrant or witnesses would be unable to attend a hearing;
 - (i) time estimate for the hearing;
 - (j) where the Registrant proposes to act in person and the charge against him is sexual in nature he shall be advised that he will not be permitted to cross examine the Complainant or any individual against whom the Registrant's alleged behaviour was directed. He shall be advised at this stage that he must obtain representation for the purpose of such cross examination.
- (7) The Legal Adviser may issue directions to the Parties for the purpose of facilitating the hearing of the matter and regarding the timetable for service of evidence, including medical and expert reports, and the Statement of Facts (if any).
- (8) The Legal Adviser may give a preliminary opinion to the Parties for the purpose of resolving questions of law or admissibility of evidence.

- (9) The decision as to whether or not to admit evidence at the hearing shall be made by the Committee at the hearing.
- (10) Where the Registrant wishes to admit either the facts of the complaint and the issue of Misconduct, or the facts of the complaint alone, the Legal Adviser shall direct the Parties to prepare an agreed Statement of Facts.

Joinder

3. (1) Where a Charge against the Registrant has been referred to the Committee and a new complaint or complaints are received by the Preliminary Proceedings Committee and subsequently referred to the Committee, such new allegations may be included in the Charge provided that they are of a similar kind.
- (2) If so requested by the Registrant, the Chair of the Committee shall postpone the hearing of the matter, for such period of time as is reasonable in the circumstances of the case, in order to allow the Registrant adequate opportunity to prepare a defence against the new allegations.
- (3) When deciding to postpone the hearing, the Chair of the Committee may receive written submissions as to the length of time to be allowed, and may direct that the matter be considered at a further pre-hearing review.

Notice of hearing

4. (1) As soon as practicable after the pre-hearing review has been held, the Clerk shall send the Registrant and the Council, a Notice of Hearing which shall:
 - (a) state the date, time and venue of the hearing;

- (b) specify the Charge against the Registrant;
 - (c) state whether the case is to proceed under the Conduct or the Health Procedure;
 - (d) inform the Parties of their respective rights to:
 - (i) attend the hearing;
 - (ii) give evidence to the Committee;
 - (iii) make oral submissions to the Committee either in person or through a representative as set out in paragraph 10 below;
 - (iv) call and cross examine witnesses;
 - (e) inform the Registrant of the possible sanctions open to the Committee in the event of a finding of Misconduct;
 - (f) inform the Registrant of the Committee's power to proceed in the absence of the Registrant, or the Registrant's representative, at the hearing;
 - (g) invite the Registrant to state whether the Registrant will be attending the hearing.
- (2) The hearing shall not be fixed for any date earlier than 28 days after the posting of the Notice of Hearing except with the agreement of the Registrant.
- (3) The Clerk shall send a copy of these Rules with the Notice of Hearing.

Postponement of the hearing

5. (1) Where either Party wishes the hearing to be postponed, such application shall be made in writing, to the Chair of the Committee.

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

Notice to Complainant and to Employer, and to Institution

6. The Clerk shall send a copy of the Notice of Hearing to the Complainant, and to the Registrant's Employer(s), (if any), and where the Registrant is registered in the part of the Register for Students, the institution.

Disclosure of case and service of documents.

7. (1) No later than 14 days before the date of hearing, the Parties shall serve on each other, and upon the Clerk to the Committee, copies of all documents and reports upon which they intend to rely.
- (2) The Parties shall make arrangements for original documents to be inspected no later than 7 days before the date of the hearing.
- (3) Upon receipt of the Registrant's case, the Presenter shall consider whether there are any further documents in the Council's possession which may assist the Registrant, and shall serve copies of such documents (if any) to the Registrant and to the Clerk.
- (4) No later than 7 days before the hearing, the Clerk shall send the Committee, copies of:
 - (a) the Notice of Hearing;
 - (b) any documents which the Parties agree may be provided to the Committee.

Procedure at the hearing

8. (1) Subject to these Rules, and the requirements of a fair hearing, the Committee may decide its own procedures generally and may issue directions with regard to the just and expeditious determination of the proceedings.

- (2) If at any time during the hearing it appears to the Committee that the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health, the Committee may cease to consider the allegation following the Conduct Procedure and instead follow the Health Procedure. If necessary, the Committee may adjourn in order to enable initial or further expert reports to be obtained.
- (3) The hearing shall be conducted in 3 stages as follows:
 - (a) preliminaries and findings of fact
 - (b) finding of Misconduct
 - (c) mitigation and sanction

Public and private hearings

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

- (a) a member of the Committee;
 - (b) the Legal Adviser or the Medical Adviser to the Committee;
 - (c) the Clerk to the Committee;
 - (d) a Party or a representative of that Party;
 - (e) a witness;
 - (f) a shorthand writer;
 - (g) an audio technician;
 - (h) a translator;
 - (i) an interpreter.
- (4) Where the Health Procedure is to be followed, the Committee shall conduct its proceedings in private and in the presence of the Parties, unless:
- (a) the Registrant requests that the hearing be held in public; and
 - (b) the Committee is satisfied, having obtained advice from the Medical Adviser, that a public hearing would be in the Registrant's best interests.
- (5) For the purpose of arriving at any decision in relation to the hearing, the Committee shall sit in private. However, the Committee shall announce any decision in public.

Representation and entitlement to be heard

10. (1) The Presenter and the Registrant shall be entitled to be heard by the Committee.

- (2) The Registrant may be represented by:
 - (a) counsel; or
 - (b) solicitor; or
 - (c) a representative from the Registrant's Trade Union; or
 - (d) a representative from the Registrant's Professional Body; or
 - (e) where the Registrant is registered in the part of the Register for Students, a representative from a Student Body.

- (3) Where the Registrant is acting in person, the Registrant may be accompanied and advised by some other representative. Such representative, however, shall not be entitled to address the Committee, without permission.

- (4) A person who represents or accompanies the Registrant shall not be entitled to be called as a witness at the hearing.

- (5) The Committee may exclude from the whole or part of the hearing, any person whose conduct, in the opinion of the Committee, has disrupted or is likely to disrupt the hearing.

- (6) The Complainant may be present at the hearing and may be called to give evidence by any Party, or by the Committee, of its own motion.

- (7) Where the Complainant is to give evidence, the Complainant shall not be entitled to be present during the proceedings until after such evidence is given.

- (8) Subject to paragraph 20, where the Complainant has been called to give evidence by the Committee, the Parties shall have the opportunity to question the Complainant.

Evidence

11. (1) Subject to the advice of the Legal Adviser, the requirements of a fair hearing, and of relevance, the Committee may:
 - (a) admit evidence whether or not it would be admissible in a Court of Law;
 - (b) exclude evidence in order to ensure fairness to the Registrant and between the Parties.
- (2) The Committee may receive oral, documentary or other evidence of any fact or matter which appears to it to be relevant to its consideration of the case.
- (3) The Committee may of its own volition, request the Parties to provide documentation or request any person to give oral evidence, which it considers might assist it in determining the Charge against the Registrant.
- (4) The Committee may admit evidence adduced by a Party notwithstanding that such evidence has not been disclosed to the other side in advance of the hearing-
 - (a) if the Parties consent; or
 - (b) where, after consultation with the Legal Adviser, it is satisfied that:
 - (i) the admission of such evidence is necessary to ensure the fairness of the proceedings and outweighs any prejudice to the Party which has not previously seen such evidence; and

- (ii) there is a good reason why such evidence was not previously disclosed.
- (5) The findings of fact and certification of conviction of any UK Criminal Court shall be conclusive proof of the facts or conviction so found.
- (6) The findings of fact by any of the regulatory bodies set out in SCHEDULE 4, shall be prima facie evidence of the facts so found.

Burden and standard of proof

- 12. (1) The burden of proof to prove the facts and Misconduct alleged in the Charge shall rest upon the Council.
- (2) The standard of proof shall be the balance of probabilities. The more serious the allegation, the more cogent is the evidence required to prove it.

Adjournment of the hearing

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

Stage 1 Preliminaries and findings of fact

Attendance at the hearing

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

Fitness to plead

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

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

Introduction of Committee and reading of the Charge

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

Amendment of the Charge

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

Admissions

18. (1) After the Charge has been read, the Chair shall ask the Registrant whether any facts (or convictions) alleged in the Charge are admitted, and whether the Registrant admits Misconduct.

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

Witnesses

19. (1) Witnesses shall be sworn or required to affirm.

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

Vulnerable witnesses

20. (1) The following shall be treated as vulnerable witnesses:
 - (a) any witness under the age of 17;
 - (b) any witness with a mental disorder;

- (c) any witness who is significantly impaired in relation to intelligence and social functioning;
 - (d) any witness with physical disabilities who requires assistance to give evidence;
 - (e) the Complainant and /or any individual against whom the Registrant's alleged behaviour was directed, where the charge against the Registrant is of a sexual nature;
 - (f) any witnesses who complain of intimidation.
- (2) Subject to the advice of the Legal Adviser, and upon hearing representations from the Parties, the Committee may adopt such measures as it considers necessary to enable it to receive evidence from vulnerable witnesses.
- (3) Measures adopted by the Committee may include, but shall not be limited to:
- (a) use of video links;
 - (b) use of pre-recorded evidence as the evidence in chief of a witness, provided always that such witness is available at the hearing for cross examination and questioning by the Committee;
 - (c) use of screens;
 - (d) use of interpreters (including signers and translators) or intermediaries.
- (4) Where the Charge against a Registrant is sexual in nature, and where the Registrant is acting in person, the Registrant shall not be allowed to cross examine the Complainant and /or any individual against whom the Registrant's

alleged behaviour was directed. Any cross examination in these circumstances shall be undertaken by the Registrant's representative.

Registrant's evidence

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

Finding of facts

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

Stage 2 Misconduct

23. (1) Where the Committee has found some or all of the facts proved, the Chair shall ask the Registrant whether, on the facts found proved, the Registrant admits Misconduct.
- (2) Where the Registrant admits Misconduct, the Committee shall then proceed to determine the issues of sanction in accordance with stage 3.

- (3) Where the Registrant denies Misconduct, the Parties shall make representations to the Committee and may adduce evidence on the question of Misconduct.
- (4) In deciding upon the issue of Misconduct, the Committee shall have regard to the Code of Practice issued by the Council under Section 9 of the Act.
- (5) The Committee shall consider in private whether, on the facts found proved, the Registrant has committed Misconduct, and shall announce its finding on the issue of Misconduct before the Parties.
- (6) The Committee shall give reasons for its finding on the issue of Misconduct.
- (7) If the Registrant is found not to have committed Misconduct, the case will be dismissed and the hearing concluded.

Stage 3 Mitigation

24. (1) Where the Committee finds that the Registrant has committed Misconduct, the Chair shall require the Presenter to provide the Committee with details of the Registrant's previous disciplinary record with the Council (if any).
- (2) The Chair will then announce the sanctions available to the Committee and shall invite representations from the Registrant as to the sanction to be imposed.
- (3) Where the Committee is of the opinion that the finding of Misconduct may merit removal or suspension from the Register, the Chair shall inform the Registrant of

this preliminary view, and shall invite the Registrant to make specific representations on both these sanctions.

- (4) The Registrant may then address the Committee in mitigation and may adduce references and testimonials, and may call character witnesses in support.
- (5) Where character witnesses are called, they may be questioned by the Presenter and the Committee.
- (6) Where the Registrant has chosen not to attend the hearing, the Registrant may provide details of mitigation in writing, in advance, to the Clerk. The Clerk shall provide such mitigation documents to the Committee at this stage.
- (7) After hearing the Registrant, the Committee shall decide, in private, what sanction it should impose.

Sanctions

25. (1) Upon a finding of Misconduct, the Committee may:
 - (a) admonish the Registrant and direct that a record of the admonishment should be placed on the Registrant's entry in the Register for a period of 5 years; or
 - (b) make an Order suspending the Registrant's registration for a period not exceeding two years (' a Suspension Order'); or
 - (c) make an Order for removal of the Registrant's registration from the Register (' a Removal Order').

- (d) revoke any Interim Suspension Order imposed by the Preliminary Proceedings Committee.
- (2) In deciding what sanction is to be imposed, the Committee shall take into account:
- (a) the seriousness of the Registrant's Misconduct;
 - (b) the protection of the public;
 - (c) the public interest in maintaining confidence in social care services; and
 - (d) the issue of proportionality.
- (3) The Committee shall announce its decision on sanctions in public, and shall give reasons for its decision.

Notice of Decision

26. (1) Within 7 days of the conclusion of the hearing, the Clerk shall send a Notice of Decision to:
- (a) the Registrant;
 - (b) the Council;
 - (c) the Complainant; and
 - (d) the Registrant's Employer (if any);
 - (e) where the Registrant is registered in the part of the Register for Students, the institution; and
 - (f) the Northern Ireland Postqualifying Education and Training Partnership, where the Registrant is enrolled with that Partnership.

- (2) The Notice of Decision shall:
- (a) record any advice of the Legal Adviser and the Medical Adviser;
 - (b) set out the Committee's findings of fact, and its decisions on Misconduct and sanction;
 - (c) give reasons for the Committee's decisions;
 - (d) where a Suspension Order has been imposed, set out the period of suspension;
 - (e) inform the Registrant of the right of appeal to the Care Tribunal. Such appeal must be lodged within 28 days from the date of the notice of decision;
 - (f) inform the Registrant that any sanction imposed by the Committee took effect from the date on which it was made.

Notes and transcript of the proceedings

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

Health procedure

28. (1) Subject to the following provisions, the Health Procedure shall be the same as the Conduct Procedure, and the foregoing provisions of this SCHEDULE shall apply.

- (2) The Committee shall sit in private unless:
 - (a) the Registrant requests that the hearing be held in public; and
 - (b) the Committee is satisfied, having obtained advice from the Legal Adviser, that a public hearing would be in the Registrant's best interests.

- (3) Subject to paragraph (4) below, in determining whether the Registrant has committed Misconduct at stage 2, and in deciding on the issue of sanction at stage 3, the Committee shall consider any medical reports or other medical evidence on whether the alleged Misconduct may have been caused, or substantially contributed to, by the Registrant's physical or mental ill health.

- (4) The Committee shall not receive medical reports or other medical evidence unless the Registrant has consented to be examined and to allow such reports and evidence to be provided to the Committee.

- (5) In determining the issue of Misconduct, the Committee may take into account a Registrant's refusal to be examined or to consent to reports on the Registrant's fitness to practise being provided to the Committee.

- (6) If at any time during the hearing it appears to the Committee that the alleged Misconduct has not been caused, or substantially contributed to, by the Registrant's physical or mental ill health, the Committee may cease to consider the allegation following the Health Procedure and instead follow the Conduct Procedure.

Amendment to the Register

29. The Council shall amend the Registrant's entry in the Register to record the finding of Misconduct and the sanction imposed, as appropriate.

Publication of decisions

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

Resumed hearings

31. (1) Where the Conduct Committee has imposed a Suspension Order, the Committee may, at request of the Registrant, review the Order before the end of the period for which the suspension has been ordered.
- (2) The Committee shall seek advice from the Legal Adviser before deciding whether or not to review the Order.
- (3) The Committee shall not review the Order unless there has been a material change of circumstances since the Order was imposed.
- (4) The procedure at the resumed hearing shall be as follows:

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

- (e) where the Registrant is registered in the part of the Register for Students, the institution; and
 - (f) the Northern Ireland Post Qualifying Education and Training Partnership, where the Registrant is enrolled with that Partnership.
- (10) The Notice of Decision shall:
- (a) record any advice of the Legal Adviser and the Medical Adviser;
 - (b) set out the Committee's decision;
 - (c) specify the reasons for the Committee's decision.

Schedule 3

Procedure of the Restoration Committee

Arrangement of Paragraphs

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Interpretation

1. (1) In this SCHEDULE -
“Applicant” means a former Registrant applying for restoration to the Register, following a Removal Order imposed by the Conduct Committee.

- (2) An application for restoration shall be deemed to be an initial application for registration under Sections 4 and 5 of the Act, and should comply with the provisions of Northern Ireland Social Care Council (Registration) Rules 2005.

Documents to be provided to the Council

2. In addition to documents specified in Rule 4 of the Northern Ireland Social Care Council (Registration) Rules 2005, the Applicant may send to the Council any report, statement or other document which, in the Applicant’s opinion, supports the application for restoration.

Documents to be provided to the Applicant

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

Notice of hearing before the Restoration Committee

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

- (2) The hearing shall not be fixed for any date earlier than 28 days after the posting of the Notice of Hearing before the Restoration Committee except with the agreement of the Applicant.

- (3) A copy of the Notice of Hearing before the Restoration Committee shall be provided to the Council by the Clerk.

Documents to be provided to the Committee

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

Procedure at a restoration hearing

6. (1) Subject to paragraphs (2) and (3) below, proceedings of the Restoration Committee shall be held in public.

- (2) Proceedings of the Restoration Committee shall be held in private where the Removal Order was made under the Health Procedures, unless:
 - (a) the Applicant requests that the hearing be held in public; and
 - (b) the Committee is satisfied, having obtained advice from the Medical Adviser, that a public hearing would be in the Applicant's best interests.

- (3) The Restoration Committee, upon the application of the Parties or of a witness, or of its own motion may sit in private, provided always that:
 - (a) no prejudice is caused to the Applicant;
 - (b) the particular circumstances of the case outweigh the public interest in holding a public hearing;
 - (c) the decision to sit in private is made after hearing representation from the Parties.

- (4) Notwithstanding the above, the deliberations of the Committee shall be held in private.

- (5) The Presenter shall outline the history of the Registrant's case and the circumstances in which the Order for removal of the Registrant's registration was made.

- (6) The Presenter may adduce to the Committee any documents which were exhibited to the Conduct Committee which made the Removal Order; and any documents which have since come into the possession of the Council and which relate to the Applicant's good character; conduct; competence; and health, and may call witnesses to give testimony on these issues.
- (7) The Applicant or the Applicant's representative shall then address the Committee as to the reasons why an Order for restoration should be made.
- (8) The Applicant may adduce evidence and call witnesses in support of the application for restoration.
- (9) Witnesses shall be examined by the Party calling them, and may be questioned by the other Party, by the Committee, and by the Legal Adviser.
- (10) The Committee shall obtain advice from the Legal Adviser before determining the application for restoration.

Decision of the Committee

7. (1) The Committee shall determine an application for restoration in two stages.
 - (2) The Committee shall first consider whether the Applicant should be restored to the Register, having regard to:
 - (a) the reasons why the Applicant was removed from the Register;

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

Notice of Decision

8. (1) Within 7 days of the conclusion of the proceedings, the Clerk shall send a Notice of Decision to the Applicant and to the Council.

- (2) The Notice of Decision shall:
- (a) record any advice from the Legal Adviser and the Medical Adviser;
 - (b) set out the Committee's decision;
 - (c) specify the reasons for the Committee's decision;
 - (d) clearly set out any conditions imposed on the Applicant's registration;
 - (e) set out the Applicant's right of appeal to the Care Tribunal. Such appeal must be lodged in writing within 28 days from the date of the notice of decision.

Time limits for making application

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

Barring Order

10. (1) Where an Applicant has made a previous unsuccessful application for restoration and the Committee has refused the current application for restoration, the Committee may order that the Applicant's right to make any further restoration applications be suspended indefinitely ("a Barring Order").
- (2) The Committee shall not make a Barring Order until it has heard representations on this issue from the Applicant.

- (3) In deciding whether or not to make a Barring Order, the Committee shall take into account the principle of proportionality.

- (4) Where a Barring Order has been made, the Applicant may apply to the Committee, in writing, for permission to make any further applications for restoration.

Schedule 4

Approved Regulatory Bodies

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