

Council meeting 4 & 5 April 2006

PUBLIC BUSINESS

Regulation of Pharmacy Technicians: Voluntary Registration Protocol

Purpose

To approve a revised protocol for the voluntary register of pharmacy technicians that will apply from the date of approval until the rules under the Section 60 Order come into force.

Strategic Objective Domain

Influencing the development of pharmacists to play a more inclusive role in healthcare, public health and social care

Recommendation

Council is asked to approve the amended protocol.

1. Background

The Council approved a protocol for the voluntary register of pharmacy technicians in December, 2004. The protocol was based on policies agreed by the Council prior to that date. While the document has served its purpose well, a number of areas, mostly relating to registration criteria, have been identified where the wording of the protocol does not adequately address all of the criteria approved by the Council. Some of these were identified by a legal adviser assisting with the Interim Appeals Committee hearing held in December. Two other areas where the current protocol is inadequate are the requirements for non-EEA overseas qualified applicants and criteria for non-UK EEA qualified applicants (to comply with EU Directives 92/51/EEC and 2005/36/EC).

These issues are being taken account of in the drafting of the rules under the Section 60 Order, but in light of the delays to the Order it is considered necessary to amend the protocol prior to the rules coming into force. The revised protocol will apply to people applying to register after 6 April 2006 (assuming it is approved) and will remain in place until the Section 60 rules come into force.

2. Risk implications

The amended protocol is more robust than its predecessor and its approval should significantly reduce the risk of appeals against registration decisions and the risk to the Society of legal challenge.

3. Resource Implications

Applicants to join the voluntary register are required as part of their application to sign a declaration that they have read, understood and will fully comply with the protocol. A copy of the revised protocol and a new declaration form will be sent to each person applying to join the register after the revised protocol has been approved who has applied using an application pack sent to them or downloaded from the Society's website prior to the change being agreed.

The financial implications of this are minimal and can be met from within the existing budget.

Janet Flint

Head Support Staff Regulation

**THE ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN
PHARMACY TECHNICIANS (VOLUNTARY REGISTRATION) PROTOCOL 2006**

The Royal Pharmaceutical Society of Great Britain, in pursuance of Article 2 (3) of the Supplemental Charter of 2004, and after consulting with representatives of pharmacy technicians, hereby adopts this Protocol.

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PART I

INTRODUCTION

Citation and commencement

1. (1) This Protocol may be cited as the Royal Pharmaceutical Society of Great Britain Pharmacy Technicians (Voluntary Registration) Protocol 2006, and shall come into force on 6 April, 2006
- (2) This Protocol shall apply to applicants seeking registration in the Voluntary Register of Pharmacy Technicians on or after 6 April, 2006.

Interpretation

2. (1) In this Protocol –

“**applicant**” means a person applying for registration as a registered pharmacy technician, or applying for renewal of such registration;

“**Code of Ethics for Pharmacy Technicians**” means the code of practice laying down the standards of conduct and practice expected of pharmacy technicians published by the Society;

“**Council**” means the Council of the Society;

“**EEA State**” means a member state, Norway, Iceland, Liechtenstein or Switzerland

“**exempt person**” means—

- (a) a national of an EEA State other than the United Kingdom;
- (b) a national of the United Kingdom who is seeking to access the register of pharmacy technicians by virtue of an enforceable Community right; or
- (c) a person who is not a national of an EEA State but who is, by virtue of an enforceable Community right, entitled to be treated, for the purposes of access to the register of pharmacy technicians, no less favourably than a national of such a State;

“**non -practising**” means a pharmacy technician who does not work in or give advice in relation to, the science of medicines or the practice of health care;

“**practising**” means a pharmacy technician who undertakes any work in, or gives advice in relation to, the science of medicines or the practice of health care;

“registered pharmacist” means a member of the Society whose name is entered in the Register of Pharmaceutical Chemists maintained by the Registrar in accordance with the provisions of the Pharmacy Act 1954;

“registrant” means a person registered in the voluntary register in accordance with this Protocol;

“Registrar” means the Secretary and Registrar of the Royal Pharmaceutical Society of Great Britain, and includes any person authorised to perform, on his behalf, the functions of the Registrar set out in these Rules;

“Registrar General” means the Registrar General for England and Wales appointed under Section 1 of the Registration Service Act 1953;

“Relevant work experience” means work experience undertaking the roles and responsibilities of a pharmacy technician in the United Kingdom, Isle of Man or Channel Islands under the supervision, direction or guidance of a pharmacist. This may include work experience following commencement of a pharmacy technician training programme but shall not include work experience prior to commencement of a pharmacy technician training programme.

“Society” means the Royal Pharmaceutical Society of Great Britain.

Service of documents

3. In Schedule 3 to this Protocol –
 - (a) unless the context otherwise specifies, any reference to the sending of a notice to an applicant or registrant, is a reference to the sending of a notice by registered post or by a postal or other service in which delivery or receipt is recorded, to the last known address of the applicant or registrant;
 - (b) where any notice is sent to an applicant or registrant, it shall be treated as having been served on the day after it was posted.

PART II

THE REGISTER OF PHARMACY TECHNICIANS

The keeping of the voluntary register

4. — (1) The Registrar shall maintain a register of pharmacy technicians to be known as the voluntary register.
 - (2) The voluntary register shall be —
 - (a) kept secure in a manner which guards against falsification;

- (b) kept in electronic format, or in such format as the Registrar shall determine; and
 - (c) divided into two parts.
- (3) The first part of the voluntary register shall be known by the title “Part 1- Practising Pharmacy Technicians” and the second part shall be known by the title “Part 2-Non Practising Pharmacy Technicians.”
- (4) The Registrar shall, in accordance with rule 5(1), make an entry in the voluntary register in respect of each pharmacy technician who is granted registration with the society.
- (5) The Registrar may, on receipt of a written request, amend a registrant’s entry in the voluntary register.
- (6) Before amending the voluntary register in accordance with paragraph (5), the Registrar shall satisfy himself as to the accuracy of any information to be entered or changed in the voluntary register, and may require the registrant making the request to produce an Affidavit, a marriage certificate or such other documentary evidence as the Registrar may consider appropriate in any case.
- (7) Where a registrant has been found guilty of misconduct, the Registrar shall annotate that registrant’s entry in the voluntary register with the finding made, and any sanction imposed.

The form of the voluntary register

5. — (1) The voluntary register shall, in respect of each person whose name is entered in each part of the voluntary register, contain the following information —
- (a) full name (including the name under which he practises as a pharmacy technician, if different);
 - (b) registration number;
 - (d) postal town relating to the address specified by the registrant for the purpose of the voluntary register;
 - (e) any finding of misconduct; and
 - (f) any warning or sanctions imposed by the Council or a Committee charged by the Council with investigating, or adjudicating upon, a registrant’s fitness to practise.

- (2) The Registrar may provide the information contained in paragraph (1)(e) and (f) to an employer of a registrant, or to any other person whom, in his opinion, should receive such information in the public interest.

Issue and form of certificates

6. — (1) Where the Registrar enters the name of a person in the voluntary register for the first time, he shall without charge, issue to that registrant a certificate of registration.
- (2) A certificate of registration shall be in the form determined by the Registrar and shall —
- (a) state the registrant's —
 - (iii) name,
 - (ii) registration number,
 - (iv) date of registration;
 - (b) state whether the registrant is practising or non-practising;
 - (c) be signed on behalf of the Society; and
 - (d) state that the certificate—
 - (i) remains the property of the Society, and
 - (ii) shall be surrendered to the Registrar upon demand.
- (3) Where a registrant —
- (a) satisfies the Registrar that the original certificate of registration, or any further certificate already issued to him, has been lost or destroyed; or
 - (b) applies to move from one part of the voluntary register to another; and
 - (c) pays such fee as may be determined by the Registrar,
- the Registrar shall issue to that registrant, a replacement certificate of registration.

**PART III
APPLICATIONS FOR REGISTRATION**

Application for registration in the voluntary register

7. — (1) An application for registration in the voluntary register shall —
- (a) specify the part of the voluntary register in which registration is sought;
 - (b) be made on the application form specified by the Registrar for the purpose and published on the Society's website and which is —
 - (i) signed and dated by the applicant, and
 - (ii) except for exempt persons, counter signed and dated by a registered pharmacist; and
 - (c) be accompanied by payment of such fee (or evidence of payment of such fee) as is determined by the Council and published on the Society's website.
- (2) A person applying for registration in the voluntary register shall provide to the Registrar, together with his application —
- (a) evidence of his identity and date of birth in the form of —
 - (i) a certified true copy of his birth certificate, or
 - (ii) a statutory declaration, or
 - (iii) certified true copy of his passport;
 - (b) his full home address and contact details, in addition to any address that he wishes to specify as his address for the purpose of the voluntary register;
 - (c) where the applicant wishes to be registered in the voluntary register in a married name, a certified true copy of the marriage certificate;
 - (d) a declaration stating that the applicant —
 - (i) agrees to be bound by the procedures set out in this protocol, and, upon registration with the Society, agrees to be bound by the Code of Ethics for Pharmacy Technicians issued by the Society,
 - (ii) in the event that he is alleged to have committed misconduct or to be unfit to practise, consents to investigation and adjudication by the Society's Council or a Committee of the Council,
 - (iii) understands that, in the event that he is proved to have committed misconduct or to be unfit to practise, his name may be removed from the voluntary register; and

- (iv) agrees, upon registration with the Society in part 1 of the voluntary register, to undertake continuing professional development in accordance with the CPD Plan and Record issued by the Society.
- (3) In addition to matters set out in 7(2), UK qualified applicants shall provide to the Registrar—
 - (a) a declaration which —
 - (i) certifies that the applicant is physically and mentally fit to undertake the duties of a pharmacy technician,
 - (ii) is signed and dated by the applicant,
 - (v) is signed and dated by a registered medical practitioner, who is, registered in the United Kingdom,
 - (vi) is stamped with an official surgery stamp, and
 - (vii) clearly displays the registration number of the registered medical practitioner;
 - (b) evidence of their good character, as it relates to their fitness to practise the work expected of a registered pharmacy technician, signed by a registered pharmacist;
 - (c) evidence of attainment of one of the qualifications set out in paragraph 1 of Schedule 1 (in the form of an original certificate or certified true copy of a certificate); and
 - (d) evidence of relevant work experience which meets the qualifying periods set out in Schedule 2.
- (4) Where a UK qualified applicant is unable to provide satisfactory evidence of work experience as specified in 7(3)(d), he shall provide information about his professional practice demonstrating his areas of competence and compliance with the Code of Ethics for Pharmacy Technicians.
- (5) In addition to matters set out in 7(2), exempt persons shall provide to the Registrar —
 - (a) evidence of entitlement to rights conferred by the Second General Systems Directive 92/51/EEC or Directive 2005/36/EC;
 - (b) a declaration which —
 - (i) certifies that the applicant is physically and mentally fit to undertake the duties of a pharmacy technician,
 - (ii) is signed and dated by the applicant,
 - (iii) is signed and dated by a registered medical practitioner,
 - (iv) is stamped with an official surgery stamp, and
 - (v) clearly displays the registration number of the registered medical practitioner;

- (c) evidence of good character, as it relates to their fitness to practise the work expected of a registered pharmacy technician, signed by a registered pharmacist, a competent authority or an awarding body;
 - (d) information about qualifications and professional experience including information about their knowledge and standards of practice, wherever acquired, which are relevant to the question of whether they should be registered or whether they shall be subject to a period of adaptation or aptitude test; and
 - (e) where the information specified in 7(5)(b)(c) and (d) is not in English, officially certified English translations of that information.
- (6) In addition to matters set out in 7(2), overseas qualified applicants shall provide —
- (a) a declaration which —
 - (i) certifies that the applicant is physically and mentally fit to undertake the duties of a pharmacy technician,
 - (ii) is signed and dated by the applicant,
 - (iii) is signed and dated by a registered medical practitioner, who is, registered in the United Kingdom,
 - (iv) is stamped with an official surgery stamp, and
 - (v) clearly displays the registration number of the registered medical practitioner;
 - (b) evidence of their good character, as it relates to their fitness to practise the work expected of a registered pharmacy technician in the form of —
 - (i) a declaration signed by a registered pharmacist, and
 - (ii) a letter of good standing from each registration authority with which they are currently registered as a pharmacist or pharmacy technician, or
 - (iii) in the case of applicants with qualifications awarded in countries where there is no requirement for pharmacy technicians to be registered, a letter of good standing from an awarding body or institution confirming their eligibility to practise as a pharmacy technician in that country;
 - (c) evidence of attainment of one of the qualifications set out in paragraph 2 of Schedule 1 in the form of —
 - (i) an original certificate or certified true copy of a certificate,
 - (ii) a detailed curriculum (syllabus), and

- (iii) an academic transcript sent directly to the Society from the awarding institution;
- (d) where the information specified in 7(6)(a)(b) and (c) is not in English, officially certified English translations of that information;
- (e) evidence of relevant work experience which meets the qualifying periods set out in Schedule 2;
- (f) information about their professional practice demonstrating their areas of competence and compliance with the Code of Ethics for Pharmacy Technicians;
- (e) in the case of overseas qualified pharmacy technicians, evidence to show how any gaps in underpinning knowledge, demonstrated by mapping the detailed curriculum for the qualification to the Society's underpinning knowledge checklist, have been filled; and
- (g) in the case of overseas qualified pharmacy technicians, an assessment of current competence by a UK-registered pharmacist.

Consideration of applications and decision of the Registrar

8. — (1) The Registrar shall consider the information received in accordance with paragraphs 7 (2)-(6) and shall determine whether an applicant is competent to practise as a pharmacy technician.
- (2) In the case of exempt persons, where —
- (a) the theoretical and/or practical matters covered by the education and training received differ substantially from those required for qualification in Great Britain; or
 - (b) one or more regulated professional activities in Great Britain do not form part of the profession pursued in the Member State from where an applicant originates or comes, and that difference corresponds to specific education and training required in Great Britain and covers theoretical and/or practical matters which differ substantially from those covered within the education and training received in the Member State,
- an applicant may be required to complete an adaptation period not exceeding two years or take an aptitude test.
- (3) The Registrar shall send any information received in accordance with paragraph 7(4), 7(5)(d) and 7(6)(f) to assessors appointed by the Council for evaluation and advice on the question of whether the applicant should be registered or, in the case of exempt persons, subject to a period of adaptation or aptitude test.

- (4) The Registrar may, for the purposes of determining the application, seek information additional to that provided by the applicant from both the applicant and any other person or source.
- (5) Before deciding whether to register the applicant, the Registrar shall send —
 - (a) any information received in accordance with paragraph (4); and
 - (b) any advice from the assessors received in accordance with paragraph (3),to the applicant, and shall give the applicant an opportunity of commenting on that information within the period of 28 days beginning after the day on which the information or advice is imparted to the applicant.
- (6) The Registrar shall not enter the name of a person in the voluntary register unless he is satisfied that the applicant —
 - (a) is competent to practise as a pharmacy technician;
 - (b) is of good character;
 - (c) is of good physical and mental health;
 - (d) has paid the appropriate fee.

Transfer from one part of the register to another

9. — (1) A person wishing to transfer his name from one part of the voluntary register to the other part of the voluntary register shall —
- (a) apply in writing to the Registrar; and
 - (b) pay such fee as may be specified by the Council.
- (2) Where the Registrar grants the application to transfer a person's name to another part of the voluntary register, he shall amend the voluntary register accordingly.
- (3) The Registrar shall not transfer the name of a person from the non-practising part of the voluntary register to the practising part of the voluntary register, unless he is satisfied of the matters specified in protocol 8(6)(a)-(d).

Appeals against the decision of the Registrar

10. — (1) Where the Registrar has refused to enter a person's name in the voluntary register, or to transfer a person's name from one part of the voluntary register to another, that person may apply to have his case considered afresh, at a hearing before a Committee established by the Council and charged with this purpose.
- (2) A person appealing against the decision of the Registrar specified in paragraph (1) shall be entitled to attend the hearing and to make representations to the Committee referred to in paragraph (1).
- (3) The Committee hearing the case shall make its decision in accordance with the procedures specified in Schedule 3 to this Protocol.

Duty to notify the Registrar of change in information

11. — The registrant shall notify the Registrar forthwith of —
- (a) any matters which may affect his fitness to practise;
 - (b) any change of address or contact details; and
 - (c) any material change in the information provided in connection with his application for registration in the voluntary register.

Fees

12. — (1) The fee to be charged for processing an application for registration under rule 7 (“the application fee”) shall be as determined by the Council and published on the Society’s website, and shall be non-refundable.
- (2) The fee to be charged in respect of the retention in the voluntary register of any registration in any year following the year in which registration was first made (“the retention fee”) shall —**
- (a) fall due on 1 January of each year;**
- (b) be as determined by the Council and published on the Society’s website, and**
- (c) be non-refundable.**
- (3) The retention fee for the first year of registration shall be payable at the same time as the application fee.
- (4) The Registrar shall send the registrant a retention fee notice three months before the date on which the retention fee falls due.
- (5) Where a registrant has not received a retention fee notice in the time stipulated in paragraph (4), it shall be the duty of the registrant to notify the Registrar accordingly.
- (6) The retention fee notice shall —
- (a) require the registrant to pay the retention fee by 1 January; and
- (b) inform the registrant that if payment is not received by the date specified in sub-paragraph (a), the Registrar will remove the registrant’s name from the register.
- (7) The fee to be charged for processing an application for restoring an entry in the register (‘the restoration fee’) shall be determined by the Council, and shall be non-refundable.

Removal from the voluntary register

13. — (1) The Registrar shall remove from the voluntary register, the name of any registrant —
- (a) who fails to pay the retention fee by the date specified in rule 12(2)(a);
- (b) whose death is evidenced by a death certificate or
correspondence from the Registrar General;

- (c) subject to paragraph (2), who makes a written application to remove his name from the voluntary register;
 - (d) who has been proved to be unfit to practise, or to have committed misconduct, and in respect of whom the Council, or a Committee of the Council acting in accordance with the procedures set out in Schedule 3 to this Protocol, has decided should be removed from the voluntary register.
- (2) The Registrar shall not consider any application by a registrant for voluntary removal from the register, where that registrant is the subject of current or pending investigation or adjudication by the Council or a Committee of the Council.
- (3) Where the Registrar has removed a person's name from the voluntary register, he shall inform —
- (a) the former registrant; and
 - (b) the former registrant's last known employer(s),
- that the person is no longer registered with the Society.

Application for restoration to the voluntary register

- 14.— (1) Subject to paragraphs (2) and (3), an application for restoration to the voluntary register shall be —
- (a) made to the Registrar;
 - (b) accompanied by the payment of the restoration fee specified by the Council; and
 - (c) treated as an initial application for registration, and the procedures set out in rule 7 shall apply.
- (2) Any application for restoration where removal from the voluntary register was as a result of a determination made by the Council or a Committee of the Council upon a finding of misconduct or being unfit to practise, shall —
- (a) not be made until the expiry of five years from the date on which the former registrant was informed of the decision to remove his name from the voluntary register;

- (b) be made to the Registrar, and accompanied by payment of the restoration fee specified by the Council; and
 - (c) be considered at a hearing before a Committee established by the Council and charged with this purpose, in accordance with the procedure set out in Schedule 3 to this Protocol.
- the
- (3) Where, during the same period of removal, a second or subsequent application for restoration to the voluntary register made by or on behalf of the person whose name has been removed is unsuccessful, the Registrar may refuse to forward for consideration, any further applications from that applicant until the expiry of two years from the date of rejection of the last application.

Provision of Protocol

- 15. — A copy of this Protocol shall be made available to every person wishing to apply for registration in the voluntary register.

SCHEDULE 1

EDUCATION QUALIFICATIONS REQUIRED FOR REGISTRATION IN THE VOLUNTARY REGISTER

1. Persons qualified in the United Kingdom

In accordance with protocol 7(3)(c), the following shall be acceptable to the Registrar as demonstrating that a person has attained the level of educational qualification necessary for registration in the voluntary register:

- Pharmacy Services NVQ level 3 (City & Guilds)
- Pharmacy Services NVQ level 3 (Edexcel)
- Pharmacy Services SVQ level 3 (Scottish Qualifications Authority)
- BTEC National Certificate in Pharmaceutical Sciences
- BTEC National Certificate in Science (pharmaceutical)
- BTEC National Certificate in Applied Science (pharmaceutical)
- BTEC National Certificate in Pharmacy Services
- SCANCAD Pharmacy Technicians' Certificate (2 year)
- SCOTEC National Certificate in Pharmaceutical Science
- SCOTEC Pharmacy Technicians Certificate (2 year)
- SCOTVEC National Certificate in Pharmaceutical Science
- SQA National Certificate in Pharmaceutical Science
- City & Guilds of London Institute, Dispensing Technicians Certificate
- Certificate of the Society of Apothecaries
- Dispensing Certificate of the Royal Army Medical Corps or the Royal Air Force
- NPA 2-year Dispensing Technicians correspondence course completed prior to 1998
- Boots 2-year dispenser training programme completed prior to 1993
- Boots 1 year dispensing assistants' course completed after 1993 plus accredited top-up training module plus assessment of competence
- Current or recent UK registration as a pharmacist
- National Certificate in Pharmaceutical Science, Stow College 1984-1992
- National Certificate in Pharmaceutical Science, Aberdeen 1990-1991
- National Certificate in Pharmaceutical Science, Dundee 1985-1987
- National Certificate in Pharmaceutical Science, James Watt College 1991-1992
- BTEC National Certificate in Pharmaceutical Sciences, University of Sunderland 1994-1998

2. Persons qualified outside of the United Kingdom who do not possess rights conferred by the Second General System Directive 92/51/EEC or Directive 2005/36/EC

In accordance with protocol 7(6)(c) the following shall be acceptable to the Registrar as demonstrating that a person has attained the level of educational qualification necessary for registration in the voluntary register:

- A qualification gained in the person's country of origin that would entitle him to practise as a pharmacist in that country;
- A pharmacy technician qualification gained in the person's country of origin that is equivalent to the Pharmacy Services S/NVQ level 3 that would entitle him to practise as a pharmacy technician in that country.

3. Persons who possess rights conferred by the Second General System Directive 92/51/EEC or Directive 2005/36/EC

In accordance with protocol 7(5)(d), the following shall be acceptable to the Registrar as demonstrating that a person has attained the level of educational qualification necessary for registration in the voluntary register:

- A pharmacy qualification gained in the person's country of origin that would entitle him to practise as a pharmacist in that country, which has been recognised by a Member State and that individual has been permitted to work as a pharmacist or pharmacy technician in that Member State;
- A pharmacy technician qualification required in another Member State for the taking up or pursuit of the profession in its territory, such qualification having been awarded in a Member State; or if the profession is not regulated in that Member State full-time professional experience as a pharmacy technician for 2 years, or for an equivalent period on a part-time basis, during the previous 10 years

SCHEDULE 2

QUALIFYING PERIODS OF WORK EXPERIENCE

The Registrar shall accept the following qualifying periods of work experience as evidence of an applicant's suitability for registration in the voluntary register:

1. Not less than 14 hours per week for four out of the last eight years; or
2. Not less than 28 hours per week for two out of the last four years.

SCHEDULE 3

PROCEDURE FOR COMMITTEES

Arrangement of paragraphs

1. Application of Schedule 3
2. Modification of procedures
3. Interpretation
4. Provision against bias
5. Voting
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15. Attendance of the public at hearing
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18. Notes and transcripts

Application of Schedule 3

1. The procedures in this Schedule shall apply to any Committee established by the Council to consider —
 - (a) an appeal from the decision of the Registrar not to enter the name of a person in the voluntary register; or
 - (b) whether to remove a person from, or restore a person's name to, the voluntary register.

Modification of procedures

2. Notwithstanding paragraph 1, the procedures in this Schedule shall be subject to such modifications as the Committee may —
 - (a) decide are necessary in the interests of fairness or the public interest; or
 - (b) approve, on the joint application of the parties.

Interpretation

3. In this Schedule—

“**legal adviser**” means a barrister, advocate or solicitor qualified to practise in England and Wales, or Scotland;

“**medical adviser**” means a medical practitioner, registered under the Medical Act 1983;

“**parties**” means the Registrar or the Society, as the case may be, and the person concerned (and/or their legal representatives) and in paragraphs 6 and 7 means the parties when present at a meeting;

“**person concerned**” means, as the case may be, a person appealing against a decision of the Registrar to refuse to enter his name in the voluntary register, a person against whom the Society has initiated proceedings to remove his name from the voluntary register, or a person applying for restoration to the voluntary register; and

“**presenter**” means the person representing the Registrar or the Society at a hearing, and may include Counsel, solicitor or an officer of the Society.

Provisions against bias

4. No member of the Committee shall sit as such to consider a case, if that member has an actual or potential conflict of interest.

Voting

- 5.— (1) Decisions of the Committee shall be taken by simple majority.
- (2) The Chair of the Committee shall not have a casting vote.
- (3) Any abstention shall be deemed to be a vote in favour of the person concerned.
- (4) Where the issue under consideration is the character of the person concerned, a tie shall be deemed to be a vote in favour of the person concerned.

Legal adviser

- 6.— (1) A legal adviser shall be present at all proceedings before the Committee, and during the private deliberations of the Committee.
- (2) The role of the legal adviser shall be to advise the Committee on questions of law, and to ensure that proceedings before the Committee are conducted fairly. To this end, the legal adviser shall inform the Committee immediately of any irregularity in the conduct of proceedings before that Committee.

- (3) The Committee shall maintain a record of any advice tendered by the legal adviser.
- (4) The advice of the legal adviser shall be given in the presence of the parties. Any advice given by the legal adviser during the private deliberations of the Committee shall subsequently be repeated in the presence of the parties.
- (5) The parties shall have the opportunity to make representations on the advice given by the legal adviser before the Committee makes its decision.
- (6) The legal adviser shall not participate in the decision making of the Committee, and shall not be entitled to vote.
- (7) At the invitation of the Chair, the legal adviser may assist the Committee in the drafting and structuring of its reasons, but may not advise on the reasons themselves.

Medical adviser

7. —
- (1) The Committee may, in such circumstances as it sees fit, appoint a medical adviser.
 - (2) The role of the medical adviser shall be to advise the Committee on any issues that may arise in relation to an appellant's physical and mental health.
 - (3) The Committee shall maintain a record of any advice tendered by the medical adviser.
 - (4) The advice of the medical adviser shall be given in the presence of the parties.
 - (5) The parties shall be entitled to make representations on the contents of the advice given by the medical adviser before the Committee makes its decision.
 - (6) The medical adviser shall not participate in the decision making of the Committee, and shall not be entitled to vote.

Secretary to Committee

- 8.—
- (1) The Committee shall be assisted by a Secretary.
 - (2) The Secretary shall be responsible for the administrative arrangements for the proceedings before the Committee, and shall keep a record of decisions made by the Committee, and the reasons for them.
 - (3) The Secretary shall not participate in the decision making of the Committee, and shall not be entitled to vote.

Evidence

- 9.— (1) Subject only to the requirements of relevance and fairness, and upon receiving the advice of the legal assessor, the Committee may admit —
- (a) subject to sub-paragraph (2), any documentary evidence; and
 - (b) where a hearing is held, any oral evidence,

whether or not such evidence would be admissible in civil proceedings (in the appropriate Court in that part of the United Kingdom in which the hearing takes place.

- (2) Where a party wishes to adduce a written statement of evidence, the Committee shall only receive such evidence if the statement —
- (a) contains a statement of truth; and
 - (b) is signed by the person making it.
- (3) Where the person concerned has been convicted of a criminal offence —
- (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and
 - (b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.
- (4) The only evidence which may be adduced by the person concerned in rebuttal of a conviction certified or extracted in accordance with sub-paragraph 3(a) is evidence for the purpose of proving that he is not the person referred to in the certificate or extract.
- (5) A certificate as to a determination about the fitness to practise of the person concerned, made by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession, and signed by an officer authorised by that body to sign such certificates shall be admissible as prima facie evidence of any facts found proved by that regulatory body.
- (6) Notwithstanding sub-paragraph (5), the person concerned shall be entitled to adduce evidence to the Committee in rebuttal of any findings made by a body in the United Kingdom responsible for the regulation of a health or social care profession.

Burden and Standard of proof

10. — Where facts are in dispute —

- (a) the burden of proving such facts shall rest on the Society; and**
(b) the Committee shall decide the facts on the civil standard (sliding scale).

Procedure for consideration on the papers

11. — (1) Save where the issue under consideration is the character or health of the person concerned or whether the person concerned should be removed from the voluntary register, the Committee shall consider the matter on the papers.
- (2) No later than 21 days before the meeting of the Committee, the Secretary shall send the person concerned a notice of consideration of case.
- (3) The notice of consideration of case shall —
- (a) state the date and time of the meeting;
 - (b) require the parties to submit all documents and submissions on which they intend to rely, to the Secretary, no later than 14 days before the meeting; and
 - (c) be accompanied by a copy of this Protocol where it has not previously been provided to the parties.
- (4) No later than 7 days before the meeting, the Secretary to the Committee shall provide the Committee with the Agenda, and documents relevant to the consideration of individual cases.
- (5) When considering individual cases, the Committee shall sit in private and, save for the Secretary and legal adviser, all other persons shall be excluded from the proceedings.
- (6) The Committee shall not receive oral evidence.
- (7) Before making its decision on an individual case, the Committee shall consider —
- (i) any documentation and representations received from the person concerned;

- (ii) any documentation and representations received from the Registrar; and
- (iii) any advice obtained from the legal adviser.

Procedure for consideration of case at hearing

- 12.— (1) Where the issue under consideration relates to—
- (a) the character or health of the person concerned; or
 - (b) whether the person concerned should be removed from the voluntary register,
- the Committee shall consider the matter at a hearing.
- (2) No later than 21 days before the case is to be considered, the Secretary shall send the parties a notice of hearing.
- (3) The notice of hearing shall —
- (a) state the date, time and venue of the hearing;
 - (b) inform the parties of their right to attend, and to be represented at, the hearing in accordance with paragraph 13;
 - (c) inform the parties that the Committee may proceed with the hearing in the absence of a party;
 - (d) inform the parties of their rights to adduce evidence in accordance with paragraph 9;
 - (e) inform the parties of their rights to call and question witnesses in accordance with paragraph 14;
 - (f) require the parties to inform the Secretary, within 14 days of receipt of the notice, whether they intend to —
 - (i) attend the hearing,
 - (ii) be represented at the hearing; and
 - (g) be accompanied by a copy of these Rules where they have not previously been provided to the parties.
- (4) The order of proceedings at the hearing shall be as follows —
- (a) the Chair shall declare the proceedings open;
 - (b) the presenter shall outline the relevant circumstances of the case and any alleged facts on which the Society relies, and shall adduce evidence in support;
 - (c) the person concerned, or his representative shall address the Committee and may adduce evidence in support of his case;

- (d) where facts are in dispute, the Chair shall inquire whether the person concerned wishes to make any admissions;
 - (e) where any facts have been admitted by the person concerned, the Chair shall announce that such facts have been found proved;
 - (f) where facts are required to be proved, the Committee shall deliberate in private in order to make its findings on the facts and shall then announce the findings it has made;
 - (g) save in exceptional circumstances, the Committee shall not be required to give reasons for its findings of fact;
 - (h) the parties may make closing submissions;
 - (i) the Committee shall deliberate in private and shall then announce its decision, together with the reasons for its decision.
- (5) Where the person concerned is not present or represented at the hearing
- (a) the Chair shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of the hearing on the person concerned;
 - (b) the Committee may, where it is satisfied that the notice of hearing has been duly served, proceed with the hearing in the absence of the person concerned; and
 - (c) sub-paragraph (4)(b)-(d) shall not apply.

Representation and entitlement to be heard at hearing

- 13.— (1) The presenter and the person concerned shall be entitled to be heard by the Committee at a hearing.
- (2) The person concerned may be represented by —
- (a) solicitor or Counsel; or
 - (b) a representative from his professional body or Defence Society; or
 - (c) with the permission of the Committee, any other person.
- (3) Subject to sub-paragraph (4), where the person concerned is not represented, he may be accompanied and advised by any person, provided that such person shall not be entitled to address the Committee without its permission.
- (4) A person who represents or accompanies the person concerned shall not be called as a witness at the hearing.

Witnesses at hearing

- 14.— (1) The Committee may, upon the application of the party calling the witness, direct that any details which may identify that witness should not be revealed in public.
- (2) Witness —
- (a) shall first be examined by the party calling them;
 - (b) may be cross examined by the opposing party;
 - (c) may then be re-examined by the party calling them;
 - (d) may then be questioned by the Committee, and with the leave of the Chair, by the legal adviser and the medical adviser (if present).
- (3) 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.
- (4) Any further questioning of witnesses shall be at the discretion of the Chair.
- (5) Witnesses shall not be allowed to attend or watch the proceedings until after they have completed giving evidence and been formally released by the Chair.

Attendance of the public at hearings

- 15.— (1) Subject to sub-paragraphs (2), hearings shall be conducted in public.
- (2) Where the issue under consideration is the health of the person concerned, the hearing shall be conducted in private unless the Committee is satisfied —
- (a) having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and
 - (b) having obtained the advice of the legal advisor,
- that the public interest or the interests of any third party outweigh the need to protect the privacy or confidentiality of the person concerned, and require all or part of the hearing to be held in public.
- (3) In this paragraph, "in private" means conducted in the presence of —
- (a) every party and any person representing a party;
 - (b) the person acting as secretary to the Committee; and
 - (c) any person responsible for the recording of the proceedings,

but otherwise excluding the public.

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

Decision of the Committee

- 16.— (1) As soon as practicable after the conclusion of the meeting or hearing, the Secretary shall send a notice of decision to —
- (a) the person concerned;
 - (b) the Registrar;
 - (c) any other person whom the Secretary considers, in the public interest, ought to be informed of the Committee's decision.
- (2) The notice of decision shall —
- (a) set out the decision of the Committee; and
 - (b) specify the reasons for the Committee's decision.
- (3) A record of any advice tendered by the legal adviser or the medical adviser shall be sent to the person concerned, and the Registrar, together with the notice of decision.

Postponements and adjournments

- 17.— (1) The Chair of the Committee may, of his own motion, or upon the application of a party, postpone any hearing of which notice has been given, before the hearing begins.
- (2) The Committee may, of its own motion or upon the application of a party, adjourn the proceedings at any stage, provided that —
- (a) no injustice is caused to the parties; and
 - (b) the decision is made after hearing representations from the parties (where present) and taking advice from the legal assessor.

- (3) Where the proceedings have been adjourned, the Secretary to the Committee shall, as soon as practicable, notify the parties of the date, time and venue of the resumed hearing.

- (4) In considering whether or not to grant a request for postponement or adjournment, the Chair or Committee shall, amongst other matters, have regard to —
 - (a) the public interest in the expeditious disposal of the case;

 - (b) the potential inconvenience caused to a party or any witnesses to be called by that party; and

 - (c) fairness to the person concerned.

Notes and transcript of hearing

- 18.— (1) The Secretary to the Committee shall arrange for all hearings to be recorded in writing or electronic form.
- (2) Any party to the proceedings shall, on application to the Secretary, and on payment of the appropriate fee, be furnished with a transcript of the record of any part of the hearing at which he was entitled to be present.
- (3) Paragraphs (1) and (2) shall not apply to the private deliberations of the Committee.