

## APPEALS RULES

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### 1 Application

- 1.1 These rules apply whenever a Registrant wishes to challenge a decision made by UKPHR under the Fitness to Practise Rules.
- 1.2 These rules apply whenever an Applicant wishes to challenge a refusal to admit him or her to the register of UKPHR and/or the rejection of his or her portfolio as unassessable or a complete return.

### 2. Definitions

- 2.1 The terms used in these rules have the meanings defined in the appendix.

### 3. Appeals Panel and its members

- 3.1 The Appeals Panel shall consist of a Chair (who may be a lay or professional member), one lay member and one professional member. No person who has previously sat as a member of a Fitness to Practise Panel in respect of a matter which is the subject of an appeal may be a member of the Appeals Panel hearing that appeal.
- 3.2 The Appeals Panel shall consider and determine any appeal made in respect of:
  - 3.2.1 A decision of the Fitness to Practise Panel to make a Registrant's registration subject to compliance with such conditions, or to suspension, under rule 5.8 of the Fitness to Practise Rules
  - 3.2.2 A decision of the Fitness to Practise Panel to impose a sanction under rule 5.6 of the Fitness to Practise Rules
  - 3.2.3 A decision of the Registration Approvals Committee not to admit an Applicant to the Register (including a decision to return a portfolio to an Applicant as rejected or not assessed)
- 3.3 In dealing with an appeal under these rules, the Appeals Panel may determine to:
  - 3.3.1 dismiss the appeal
  - 3.3.2 allow the appeal and quash the decision appealed against

- 3.3.3 substitute for the decision appealed against any other decision, sanction or direction that could have been made by the Fitness to Practise Panel or the Registration Approvals Committee
  - 3.3.4 remit the complaint back to the Fitness to Practise Panel or Registration Approvals Committee to dispose of in accordance with the directions of the Appeals Panel.
- 3.4 To the extent that it is necessary in determining any fact or matter relevant to the issue or issues before it, the Appeals Panel shall apply the civil standard of proof.

#### **4. Grounds for appeal**

- 4.1 The grounds upon which an appeal can be made are that:
- 4.1.1 the decision of the Fitness to Practise Panel or the Registration Approvals Committee was wrong because insufficient weight was given to evidence or incorrect conclusions were drawn from evidence, which was or should have been material to the decision
  - 4.1.2 the decision was flawed because of a serious procedural or other irregularity in the proceedings
  - 4.1.3 a party has acquired new evidence that could not have been submitted to the Fitness to Practise Panel or the Registration Approvals Committee and if submitted, would have been likely to affect the decision
  - 4.1.4 the sanction imposed by the Fitness to Practise Panel was disproportionate considering the determination on the facts and/or the Registrant's circumstances.

#### **5. Who may appeal**

- 5.1 The following persons may make an appeal in the circumstances described:
- 5.1.1 A Registrant who is the subject of an interim order for conditions and/or suspension under Rule 5.8 of the Fitness to Practise may appeal against that order
  - 5.1.2 A Registrant who is the subject of a decision made by the Fitness to Practise Panel may appeal against that decision
  - 5.1.3 The Presenting Officer on behalf of UKPHR may appeal against a decision of the Fitness to Practise Panel
  - 5.1.4 An Applicant who is the subject of a decision by the Registration Approvals Committee not to admit to the Register or to reject or not to assess his or her portfolio may appeal against that decision.

#### **6. Time limit for appeal and pre-hearing reviews**

- 6.1 An appeal must be submitted in writing by the Appellant to the Administrator and must be received within 20 working days of the date of the decision appealed against.

- 6.2 The Chair of the Appeals Panel may extend the time for the making of an appeal after consideration of the relevant papers (such as the Appellant's reasons for requesting an extension and the responses of other parties) and shall notify all parties in writing of the request that was made, the evidence that was considered, and the decision, made with reasons for such decision.
- 6.3 The Chair of the Appeals Panel may decide that the Appeals Panel will hold a preliminary hearing before it decides whether or not to grant an application to extend the time for an appeal to be made which may be arranged for the same time as the appeal hearing.
- 6.4 In order to facilitate the effective hearing of any appeal, the Chair of the Appeals Panel may make directions in respect of any preliminary matters, or resolve any issues of law, before the hearing. The Chair may also invite the Parties to attend a pre-hearing review to consider such directions or deal with any point of law. Arrangements will be made through the Administrator. Any pre-hearing review will be in private before the Chair, who may be assisted by the Clerk to the Appeals Panel. A pre-hearing review may take place at any time prior to the hearing of the appeal.

## **7. Lodging an appeal**

- 7.1 An appeal must be made by submitting the form published by UKPHR and must be signed by or on behalf of the Appellant.
- 7.2 A notice of appeal may be delivered to the Administrator by hand or in the post or by email and the Administrator shall send the Appellant a written acknowledgement of receipt stating the date on which the appeal was received.
- 7.3 The appeal must identify the grounds of appeal and set out, clearly and concisely, why the decision of the Fitness to Practise Panel or Registration Approvals Committee was wrong or unjust or procedurally flawed; or the reasons why the new evidence was not available to the Fitness to Practise Panel or Registration Approvals Committee and why it would have affected their decision; or why the sanction was disproportionate.
- 7.4 The appeal must be accompanied by payment of the fee prescribed by UKPHR, which fee the Appeals Panel may decide should be refunded in whole or in part if any part of the appeal is upheld.

## **8. Notice of hearing**

- 8.1 The Administrator shall send a notice of the date set for the hearing of the appeal to the parties not less than 20 working days before the hearing.
- 8.2 The notice of hearing shall:
- 8.2.1 specify the date, time and venue of the hearing
  - 8.2.2 inform the parties of their right to attend and to be represented
  - 8.2.3 inform the parties of the power of the Appeals Panel to proceed in their absence; and
  - 8.2.4 inform the parties of the powers of disposal of the Appeals Panel.

## **9. Procedure at hearings before the Appeals Panel**

- 9.1 The Appeals Panel shall determine its own procedure in accordance with these rules and the overriding requirement of fairness.
- 9.2 Unless it decides otherwise, the Appeals Panel will not receive either oral evidence or evidence which was not before the Fitness to Practise Panel or the Registration Approvals Committee except in respect of an appeal under rule 4.1.3. The Appeals Panel may admit such evidence it considers fair and relevant to the case before it, whether or not such evidence would be admissible in a Court of Law.
- 9.3 The following shall be considered as conclusive proof of the offence committed or of the facts proved in relation to the determination of the case concerned:
  - 9.3.1 a certificate or other document signed by a competent officer of a Court in the UK or overseas that the person named has been convicted of the criminal offence or offences stated
  - 9.3.2 a caution form or similar record produced by a competent officer of a UK police force demonstrating that the person named has been cautioned for the offence or offences stated
  - 9.3.3 a certificate or other document signed by a competent officer of a regulatory body in the UK or elsewhere that the person named has been the subject of the adjudication relating to fitness to practise stated.
- 9.4 Should an Appellant fail to attend the hearing, the Appeals Panel may dismiss the appeal provided it is satisfied that all reasonable efforts have been made in accordance with these rules to serve notice of the hearing on the Appellant.
- 9.5 All hearings of the Appeals Panel shall be in public, except where the Panel considers that the circumstances of the case outweigh the public interest in holding the hearing or any part of the hearing in public, for example matters concerning personal health.
- 9.6 The Appeals Panel may exclude from the whole or part of the hearing any person, including any party, whose conduct, in its opinion, has disrupted or is likely to disrupt the proceedings.
- 9.7 The parties shall be given reasonable opportunity to present their cases.
- 9.8 Where so permitted by the Appeals Panel in accordance with rule 9.2, a party may call witnesses and cross examine witnesses called by other parties.
- 9.9 The Appeals Panel members may put questions to witnesses (if any) and parties.
- 9.10 The Appeals Panel may at any time, in the exercise of its discretion and/or at the request of any party, adjourn the proceedings.
- 9.11 At the conclusion of the hearing, the Appeals Panel shall consider and announce its determination and whether the appeal fee should be refunded and give reasons. The Appeals Panel may reserve its decision in which event it shall inform the parties how and when they shall receive the Appeals Panel's decision. The Appeals Panel may announce its decision and provide its reasons afterwards.
- 9.12 Parties may be represented at any hearing by a solicitor or counsel, (or in the case of a Registrant or Applicant, a representative of any professional organisation of which he or

she is a member, or, at the discretion of the Appeals Panel, a member of his or her family or any other person).

- 9.13 Decisions of the Appeals Panel shall be taken by a simple majority. The Chair will have no casting vote and no Appeals Panel member may abstain from voting.

## **10. Duties of the Registrar**

- 10.1 The Registrar shall arrange to serve notice of the determination of the Appeals Panel on the parties and/or interested persons and organisations as soon as reasonably practicable.
- 10.2 Any sanction imposed by the Appeals Panel shall be given effect immediately unless the Appeal Panel specifies a later date.
- 10.3 The Registrar shall arrange for a record of the proceedings to be made and reported to UKPHR. UKPHR may publish the record provided that the record of any part of the proceedings held in private shall be excluded from this publication.

## **11. Service**

- 11.1 Any notice or other document required to be given under these rules may be given:
- 11.1.1 personally to the Appellant or Administrator as the case may be; or
  - 11.1.2 by ordinary post to the Appellant's last known address; or
  - 11.1.3 by electronic mail to an electronic mail address that the Appellant has notified to the Registrar as an address for communications; or
  - 11.1.4 where the Appellant is represented, by sending or delivering to the place of business or usual address of that representative, or by electronic mail to the electronic mail address of that representative.
- 11.2 The service of any notice under these rules may be proved by:
- 11.2.1 a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service; or
  - 11.2.2 a confirmation of receipt of the notice or document sent by electronic mail; or
  - 11.2.3 a signed statement from any person serving the notice or document confirming that the notice or document was delivered to, sent to or left at the Appellant's address or electronic mail address or the address or electronic mail address of the Appellant's representative.

## Appendix: Definitions

<b>Administrator</b>	means the person or persons appointed by UKPHR to administer and to support the Appeals Panel
<b>Appeals Panel</b>	means the independent panel established under UKPHR's Articles of Association to hear appeals from decisions of the Fitness to Practise Panel and the Registration Approvals Committee
<b>Appellant</b>	means the Registrant or Applicant (or UKPHR under rule 5.1.3) bringing an appeal under these rules or their representative
<b>Applicant</b>	means a person who has applied to UKPHR for registration both as a new applicant and one who wishes to be restored or readmitted to the register
<b>Complaint</b>	means a complaint or information received by UKPHR which raises a question whether the fitness to practise of any Registrant is impaired by reason of health, conduct, professional performance or a conviction or caution in the UK or a conviction elsewhere that would amount to a criminal offence in the UK, or a determination by a regulatory body in the UK or elsewhere to the effect that the Registrant's fitness to practise is impaired
<b>Fitness to Practise Panel</b>	means the panel established under UKPHR's Articles of Association for the purpose set out in UKPHR's Fitness to Practise Rules
<b>Party</b>	means any Applicant or Registrant or UKPHR as the context requires and includes their respective representatives and references to 'the parties' shall be construed accordingly
<b>Presenting Officer</b>	means any person appointed to represent UKPHR at any hearing held in accordance with these rules
<b>Register</b>	means the public register of public health professionals maintained by UKPHR
<b>Registrant</b>	means a registered public health specialist, specialty registrar or practitioner about whom information has been received by UKPHR, which raises a question whether her/his fitness to practise is impaired
<b>Registration Approvals Committee</b>	means the committee of individuals being non-directors, which determines whether to admit an applicant to the Register
<b>Standing Orders</b>	means the Standing Orders of UKPHR

**Statement of remedial action**

means a statement of proposed training, medical treatment or such other steps agreed by the registrant, compliance with which is a condition of her/his continued registration with UKPHR

**UKPHR**

means the UK Public Health Register.