
STATUTORY INSTRUMENTS

2010 No. 231

The Pharmacy Order 2010

PART 6

Fitness to practise

Professional performance assessments

55.—(1) The Council may make rules about the circumstances in which the Registrar, the Investigating Committee and the Fitness to Practise Committee are authorised to give directions requiring an assessment of the standard of a registrant's professional performance by an individual assessor or an assessment team.

(2) The circumstances that may be prescribed under paragraph (1) include circumstances arising during proceedings of either Committee.

(3) The Council may make such provision as it considers appropriate in rules in connection with the composition of assessment teams and the functions of and procedures to be followed by individual assessors and assessment teams and may, in particular, make provision with regard to—

- (a) the Council entering into arrangements with other bodies for those bodies to provide individual assessors or assessment teams to carry out the assessments;
- (b) allowing an assessment by an individual assessor or an assessment team to include an assessment of the standard of a registrant's professional performance both at any time before the assessment and at the time of the assessment; and
- (c) referring to the Investigating Committee or the Fitness to Practise Committee a case where an individual assessor or an assessment team considers that a registrant has failed to comply with a reasonable requirement that has been imposed on that registrant by the individual assessor or the assessment team.

(4) An individual assessor or an assessment team, in connection with carrying out an assessment of the standard of a registrant's professional performance—

- (a) may require the production of, and inspect and take copies of, any records (in whatever form they are held) arising out of or related to the registrant's professional practice; and
- (b) where such records are kept otherwise than in legible form, may require a copy of them to be given in legible form.

(5) Nothing in, or in rules under, this article requires or permits—

- (a) any disclosure of information which is prohibited by or under any enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, an individual assessor or an assessment team, when requiring the production of records under paragraph (4)(a), may require that the records be put in a form which does not allow for the identification of that individual; or
- (b) the production of records which a person could not be compelled to produce in civil proceedings in the High Court or the Court of Session under article 58.

(6) In determining, for the purposes of paragraph (5)(a), whether a disclosure of personal data is prohibited, it is to be assumed, for the purposes of section 35(1) of the Data Protection Act 1998⁽¹⁾ (disclosures required by law or made in connection with legal proceedings etc.), that the disclosure of personal data is required by paragraph (4).

(7) If a person fails to produce any records within 14 days of being required to do so under paragraph (4), the Registrar, the Investigating Committee or the Fitness to Practise Committee on whose behalf the individual assessor or assessment team is carrying out the assessment in connection with which the records are being sought, may seek an order of the relevant court requiring the records to be produced.

(8) For the purposes of this article, the “relevant court” means—

- (a) in a case where records are being sought in relation to a registrant who is domiciled in Scotland, the sheriff in whose sheriffdom that registrant is domiciled; and
- (b) in any other case, the county court (the Central London County Court in the case of a registrant who is not domiciled in Great Britain).

⁽¹⁾ 1998 c.29.