
STATUTORY INSTRUMENTS

2016 No. 496

**The General Dental Council
(Fitness to Practise etc.) Order 2016**

PART 1

General

Citation and commencement

1. This Order may be cited as the General Dental Council (Fitness to Practise etc.) Order 2016 and shall come into force on the day after the day on which this order is made.

Amendment of the Dentists Act 1984

2. The Dentists Act 1984(1) is amended as follows.

Delegation of Investigating Committee's functions

3. After section 27A(2) insert—

“ Delegation of the Investigating Committee's functions under section 27A

27AA. Rules(3) may make provision for one or more of the following—

- (a) the registrar;
- (b) any other officer of the Council,

to exercise the functions of the Investigating Committee under section 27A, whether generally or in relation to such classes of case as may be specified in the rules.”.

4. After section 36O(4) insert—

“ Delegation of the Investigating Committee's functions under section 36O

36OA. Rules may make provision for one or more of the following—

- (a) the registrar;
- (b) any other officer of the Council,

to exercise the functions of the Investigating Committee under section 36O, whether generally or in relation to such classes of case as may be specified in the rules.”.

(1) 1984 c. 24.

(2) Section 27A was substituted by [S.I. 2005/2011](#), articles 2(1) and 18.

(3) See sections 50C(1) and (2) of the Dentists Act 1984 which provide that the power to make rules shall be exercisable by the General Dental Council and that such rules (with some exceptions) shall not come into force until approved by the Privy Council.

(4) Section 36O was inserted by [S.I. 2005/2011](#), articles 2(1) and 31.

Power for Investigating Committee to agree undertakings

5.—(1) Section 27A (powers of the Investigating Committee in respect of registered dentists) is amended as follows.

(2) In subsection (4), before paragraph (a) insert—

“(za) may agree with the person who is the subject of the allegation that the person will comply with such undertakings as the Investigating Committee consider appropriate;”.

(3) In subsection (4)(a), at the beginning insert “if they do not agree undertakings under paragraph (za),”.

(4) In subsection (6), before paragraph (a) insert—

“(za) may agree with the person who is the subject of those allegations that the person will comply with such undertakings as the Investigating Committee consider appropriate;”.

(5) In subsection (6)(a), at the beginning insert “if they do not agree undertakings under paragraph (za),”.

(6) After subsection (6B) (inserted by article 14(5)) insert—

“(6C) If the Investigating Committee agree undertakings under subsection (4)(za) or (6) (za), they may, if they consider it appropriate to do so, direct the registrar to enter details of the undertakings in the entry in the register relating to the person who is the subject of the allegation or allegations.”.

(7) After subsection (12) (inserted by article 7) insert—

“(13) Rules may make provision in connection with undertakings under subsections (4) (za) and (6)(za) (including provision as to the actions which may be taken in consequence of undertakings being breached).”.

6.—(1) Section 36O (powers of the Investigating Committee in respect of registered dental care professionals) is amended as follows.

(2) In subsection (4), before paragraph (a) insert—

“(za) may agree with the person who is the subject of the allegation that the person will comply with such undertakings as the Investigating Committee consider appropriate;”.

(3) In subsection (4)(a), at the beginning insert “if they do not agree undertakings under paragraph (za),”.

(4) In subsection (6), before paragraph (a) insert—

“(za) may agree with the person who is the subject of those allegations that the person will comply with such undertakings as the Investigating Committee consider appropriate;”.

(5) In subsection (6)(a), at the beginning insert “if they do not agree undertakings under paragraph (za),”.

(6) After subsection (6B) (inserted by article 17(5)) insert—

“(6C) If the Investigating Committee agree undertakings under subsection (4)(za) or (6) (za), they may, if they consider it appropriate to do so, direct the registrar to enter details of the undertakings in the entry in the register relating to the person who is the subject of the allegation or allegations.”.

(7) After subsection (12) (inserted by article 8) insert—

“(13) Rules may make provision in connection with undertakings under subsections (4) (za) and (6)(za) (including provision as to the actions which may be taken in consequence of undertakings being breached).”.

Power for Investigating Committee to review a decision to issue a warning

7. In section 27A (powers of the Investigating Committee in respect of registered dentists) after subsection (10) insert—

“(11) The Investigating Committee may review a determination made by them to issue a warning under subsection (2)(a) on an application made—

- (a) by the person to whom the warning was issued or the registrar;
- (b) before the end of the period of two years beginning with the date on which the determination was made.

(12) On a review under subsection (11) the Investigating Committee may, if they consider it appropriate—

- (a) revoke the warning, and
- (b) direct the registrar to remove details of the warning from the entry in the register relating to the person to whom the warning was issued.”.

8. In section 36O (powers of the Investigating Committee in respect of registered dental care professionals) after subsection (10) insert—

“(11) The Investigating Committee may review a determination made by them to issue a warning under subsection (2)(a) on an application made—

- (a) by the person to whom the warning was issued or the registrar;
- (b) before the end of the period of two years beginning with the date on which the determination was made.

(12) On a review under subsection (11) the Investigating Committee may, if they consider it appropriate—

- (a) revoke the warning, and
- (b) direct the registrar to remove details of the warning from the entry in the register relating to the person to whom the warning was issued.”.

Review of Investigating Committee’s determination by registrar

9. After section 27AA (inserted by article 3) insert—

“27AB Review of determination under section 27A(1)

(1) Rules may make provision for enabling the registrar to review a determination by the Investigating Committee under section 27A(1) that an allegation ought not to be considered by a Practice Committee.

(2) Rules made by virtue of subsection (1) may, in particular, include provision as to—

- (a) the period within which a review is to be commenced;
- (b) the process to be followed by the registrar in carrying out a review (including the determinations to be made by him);
- (c) the actions which may be taken following a review.”.

10. After section 36OA (inserted by article 4) insert—

“36OB Review of determination under section 36O(1)

(1) Rules may make provision for enabling the registrar to review a determination by the Investigating Committee under section 36O(1) that an allegation ought not to be considered by a Practice Committee.

(2) Rules made by virtue of subsection (1) may, in particular, include provision as to—

- (a) the period within which a review is to be commenced;
- (b) the process to be followed by the registrar in carrying out a review (including the determinations to be made by him);
- (c) the actions which may be taken following a review.”.

Review of registrar’s determination

11. In section 27 (allegations in respect of registered dentists)(5) for subsection (6) substitute—

“(6) The registrar shall investigate the allegation for the purpose of—

- (a) determining whether it is an allegation in relation to which this section applies, and
- (b) if he determines that it is, determining whether to refer the allegation to the Interim Orders Committee under subsection (5)(b).

(6A) Rules may make provision for enabling the registrar to review a determination under subsection (6)(a) that the allegation is not an allegation in relation to which this section applies (including provision as to the action which may be taken following a review).”.

12. In section 36N (allegations in respect of registered dental care professionals)(6) for subsection (6) substitute—

“(6) The registrar shall investigate the allegation for the purpose of—

- (a) determining whether it is an allegation in relation to which this section applies, and
- (b) if he determines that it is, determining whether to refer the allegation to the Interim Orders Committee under subsection (5)(b).

(6A) Rules may make provision for enabling the registrar to review a determination under subsection (6)(a) that the allegation is not an allegation in relation to which this section applies (including provision as to the action which may be taken following a review).” .

Referral to the Interim Orders Committee

13. In section 27 (allegations in respect of registered dentists) for subsection (5)(b) substitute—

“(b) may, at any time before the Investigating Committee have begun to consider the allegation, refer the allegation to the Interim Orders Committee if he considers it appropriate.”.

14.—(1) Section 27A (powers of the Investigating Committee in respect of registered dentists) is amended as follows.

(2) In subsection (4) omit paragraph (b) and the “and” immediately preceding it.

(3) After subsection (4) insert—

(5) Section 27 was substituted by [S.I. 2005/2011](#), articles 2(1) and 18.

(6) Section 36N was inserted by [S.I. 2005/2011](#), articles 2(1) and 31.

“(4A) Unless subsection (5) applies, the Investigating Committee may, if they consider it appropriate, refer the allegation to the Interim Orders Committee (subject to subsection (6B)).”.

(4) In subsection (6) omit paragraph (b) and the “and” immediately preceding it.

(5) After subsection (6) insert—

“(6A) Where subsection (5) applies, the Investigating Committee may, if they consider it appropriate, refer those allegations to the Interim Orders Committee (subject to subsection (6B)).

(6B) Subsections (4A) and (6A) do not apply if the Investigating Committee have determined that the allegation or allegations ought to be considered by a Practice Committee and—

(a) the Investigating Committee agree undertakings under subsection (4)(za) or (6)(za), or

(b) (if they do not agree undertakings under that provision) the hearing before a Practice Committee has commenced or, where there is not to be a hearing before a Practice Committee, a Practice Committee have begun to consider written statements or representations.”.

(6) after subsection (8) insert—

“(8A) On a review under subsection (8) the Investigating Committee may refer the allegation or allegations to the Interim Orders Committee.”.

15. In section 32(2)(b) (Interim Orders Committee to exercise functions only on a reference by the Investigating Committee)(7) for “section 27A(4)(b) or (6)(b)” substitute “section 27A(4A) or (6A)”.

16. In section 36N (allegations in respect of registered dental care professionals) for subsection (5)(b) substitute—

“(b) may, at any time before the Investigating Committee have begun to consider the allegation, refer the allegation to the Interim Orders Committee if he considers it appropriate.”.

17.—(1) Section 36O (powers of the Investigating Committee in respect of registered dental care professionals) is amended as follows.

(2) In subsection (4) omit paragraph (b) and the “and” immediately preceding it.

(3) After subsection (4) insert—

“(4A) Unless subsection (5) applies, the Investigating Committee may, if they consider it appropriate, refer the allegation to the Interim Orders Committee (subject to subsection (6B)).”.

(4) In subsection (6) omit paragraph (b) and the “and” immediately preceding it.

(5) After subsection (6) insert—

“(6A) Where subsection (5) applies, the Investigating Committee may, if they consider it appropriate, refer those allegations to the Interim Orders Committee (subject to subsection (6B)).

(6B) Subsections (4A) and (6A) do not apply if the Investigating Committee have determined that the allegation or allegations ought to be considered by a Practice Committee and—

(7) Section 32 was substituted by [S.I. 2005/2011](#), articles 2(1) and 23.

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- (a) the Investigating Committee agree undertakings under subsection (4)(za) or (6)(za), or
- (b) (if they do not agree undertakings under that provision) the hearing before a Practice Committee has commenced or, where there is not to be a hearing before a Practice Committee, a Practice Committee have begun to consider written statements or representations.”.

(6) after subsection (8) insert—

“(8A) On a review under subsection (8) the Investigating Committee may refer the allegation or allegations to the Interim Orders Committee.”.

18. In section 36V(2)(b) (Interim Orders Committee to exercise functions only on a reference by the Investigating Committee)(**8**) for “section 36O(4)(b) or (6)(b)” substitute “section 36O(4A) or (6A)”.