

Schedules

Schedule 3

Article 20

EVIDENCE GATHERING, NOTIFICATIONS, PUBLICATION AND DATA

Disclosure of information

1.—(1) Subject to [sub-paragraph \(2\)](#), the Regulator may disclose information about any matter, regardless of when or where it arose, relating to its functions under this Order.

(2) The Regulator must not disclose information—

(a) which relates to a particular associate’s fitness to practise, or

(b) related to fitness to practise in respect of every—

(i) associate, or

(ii) associate of a particular class,

unless it considers it to be in the public interest to do so.

(3) For the purposes of [sub-paragraph \(2\)\(b\)](#), the Regulator need not consider whether it is in the public interest to disclose the information in question in respect of each individual to whom it relates.

Notifications

2.—(1) The Regulator must notify—

(a) a decision under—

(i) [article 4](#), in respect of an approval or determination under that article, to the person who applied to the Regulator for that approval or determination;

(ii) [article 6\(1\)](#) to [\(3\)](#) to the person who applied for registration under that paragraph;

(iii) [article 7](#) to the registrant;

(iv) [article 8](#) to the person whose registration is subject to a condition under that article;

(v) [article 9\(2\)](#), other than paragraph (2)(c)(i) or (ii)(dd), to the person whose entry is removed under that paragraph,

and such notification, where appropriate, must inform the notified person that they may apply for permission to appeal to a Panel under [article 16](#) or appeal to a court under [article 17](#);

(b) where it considers appropriate, a person in respect of whom an assessment is carried out under [article 10\(1\)\(a\)](#)—

(i) that it is carrying out the assessment;

(ii) as to the outcome of the assessment;

(c) a person (“P” in [this paragraph](#) and the next) of a decision in respect of P under [articles 10](#), other than paragraph (1)(a), and [14\(3\)](#), such notification being accompanied by—

(i) a statement of the reasons for the decision, and

(ii) information in respect of any right of appeal against the decision;

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- (d) a decision under [articles 7, 9\(2\)\(b\), 10\(3\) to \(6\), 13 and 14](#), other than a decision to refer a matter to a Panel, to—
 - (i) any person by whom P is employed, or with whom P has an arrangement, to provide medical services (where known),
 - (ii) any regulatory body with which P is registered (where known), and
 - (iii) the complainant (if any);
 - (e) a revision under [article 15](#) to anyone who was notified of the decision that has been revised;
 - (f) a decision under [article 16\(3\)](#) to the person applying for permission to appeal;
 - (g) a Panel’s decision under [article 16\(5\)](#) to the parties to that appeal.
- (2) The Regulator must include in a notification under [sub-paragraph \(1\)\(a\)](#) reasons for the decision except where the decision is to grant an application without a condition.
- (3) The Regulator must notify a removal of an entry and the date of removal under [article 9\(1\)\(c\)](#) to—
- (a) the person (“R”) whose entry in the register has been removed under that provision, and
 - (b) where known, any—
 - (i) person by whom R is employed, or with whom R has an arrangement, to provide services as an associate, or in respect of such services, and
 - (ii) any regulatory body with which R is registered.
- (4) The Regulator must notify a person whose entry in the register has been removed under [article 9\(1\)\(c\)](#) that they may appeal to a court under [article 17](#).

Power to publish

- 3.—(1) The Regulator may publish—
- (a) information related to fitness to practise in respect of every—
 - (i) associate, or
 - (ii) associate of a particular class,if it considers it to be in the public interest to do so;
 - (b) the findings of any assessment under [paragraph 7\(1\)\(a\)](#) in respect of an approval under [article 4](#) and any warning the Regulator may give in consequence of the findings;
 - (c) a removal under [article 9\(2\)](#);
 - (d) an assessment under [article 7](#);
 - (e) the reasons for the determination of an appeal under this Order if it considers it to be in the public interest to do so;
 - (f) information relating to former registrants which was previously published under [paragraph 4](#);
 - (g) guidance about the exercise of functions under this Order.
- (2) For the purposes of [sub-paragraph \(1\)\(a\)](#), the Regulator need not consider whether it is in the public interest to publish the information in question in respect of each individual associate to whom it relates.

Duty to publish registration information and certain decisions

- 4.—(1) The Registrar must publish, together, in respect of each registered person—
- (a) that person’s name, registration number and date of most recent registration,

- (b) in which part of the register the person is registered, and
 - (c) information publication of which the Regulator is satisfied serves the purpose of protection of the public.
- (2) The Regulator must, as soon as practicable, publish in addition—
- (a) a removal under [article 9\(1\)\(c\)](#),
 - (b) a warning under [article 10\(3\)\(a\)\(ii\)](#) or [\(5\)\(a\)\(ii\)](#),
 - (c) a decision under [article 10\(5\)\(b\)\(i\)](#),
 - (d) an Interim Measure or a Final Measure, and
 - (e) a decision under [article 16\(5\)](#) or [article 17\(6\)](#),

until the Regulator is satisfied that such publication no longer serves the purpose of protection of the public.

Duty to publish other matters

- 5.—(1) The Regulator must publish—
- (a) any rules made under this Order,
 - (b) standards determined under [article 3\(1\)](#),
 - (c) a list of approvals given under [article 4\(1\)](#),
 - (d) any condition or revocation of approval under [article 4\(2\)\(a\)](#) and [\(c\)](#), and
 - (e) guidance as to what amounts to impairment of fitness to practise.
- (2) The Regulator must keep guidance under [sub-paragraph \(1\)\(e\)](#) under review.

Information to be included in a report under section 52A of the Medical Act 1983

6. The Regulator must include in a report under section 52A (annual reports, statistical reports and strategic plans) of the Medical Act 1983(1) produced on or after the date on which [this paragraph](#) is commenced a description of—
- (a) the arrangements which it has put in place to protect members of the public from registrants whose fitness to practise is impaired, together with its observations on the report, and
 - (b) the likely impact of any change made during the period covered by the report to fees set under [paragraph 8 of Schedule 4](#), in particular in respect of—
 - (i) the workforce of the health service in the United Kingdom,
 - (ii) associates, and
 - (iii) the Regulator.

Evidence gathering

- 7.—(1) The Regulator must take such steps as it considers necessary for the purpose of assessing whether—
- (a) standards determined under [article 3\(1\)](#) are met at any point in time, or
 - (b) a person’s fitness to practise as an associate is impaired.
- (2) The steps taken under [sub-paragraph \(1\)\(a\)](#)—

(1) Section 52A was substituted by paragraph 18 of Schedule 1 to the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 (S.I. 2008/1774).

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- (a) must include requiring prescribed persons to supply prescribed information, at prescribed intervals in such manner as may be prescribed, to the Regulator, and
 - (b) may include setting examinations.
- (3) In [sub-paragraph \(2\)\(a\)](#), “prescribed” means prescribed in rules under [paragraph 14](#) of [Schedule 4](#).
- (4) Subject to [sub-paragraph \(5\)](#) and [paragraph 8](#), the Regulator may require a person, including an associate in respect of whom the information or document is sought, to supply information or produce a document which the Regulator considers the person is able to supply and which appears to the Regulator to be relevant for the purposes of its functions under this Order.
- (5) The Regulator may not require, for the purposes of fitness to practise proceedings, an associate to provide it with material produced by that associate—
- (a) for the purposes of professional development, or
 - (b) in the course of reflecting on their professional practice in order to improve it.
- (6) If a person fails to supply any information or produce any document within 14 days of being required to do so under [sub-paragraph \(4\)](#), the Regulator may seek an order of the county court or, in Scotland, the sheriff in whose Sheriffdom is situated the address which—
- (a) is shown in the register as the address of the person concerned, or
 - (b) the last known address of the person concerned,
- requiring the information to be supplied or the document to be produced.

Further provision as to disclosure

- 8.**—(1) Nothing in [article 18](#) or [this Schedule](#) requires or permits the making of a disclosure which contravenes the data protection legislation.
- (2) [Paragraph 7\(4\)](#) does not apply in respect of the supply of information or the production of a document which a person could not be compelled to supply or produce in court.
- (3) Where, for the purposes of [paragraph 7\(4\)](#), information is held in a form which is not disclosable by reason of the data protection legislation because the information is capable of identifying an individual, the Regulator may require that information be put into a form which is not capable of identifying that individual.
- (4) In [this paragraph](#), “the data protection legislation” has the same meaning as in the Data Protection Act 2018(2) (see section 3(9) of that Act (Terms relating to the processing of personal data)).

Proceedings before a Panel

- 9.**—(1) For the purposes of fitness to practise proceedings before a Panel in England and Wales or Northern Ireland, a Panel may—
- (a) administer oaths, and
 - (b) issue a writ of subpoena ad testificandum or subpoena duces tecum.
- (2) Any such writ must not compel a person to produce any document which they could not be compelled to produce on the trial of an action.
- (3) Section 36 of the Senior Courts Act 1981(3) (subpoena issued by High Court to run throughout United Kingdom) or section 67 of the Judicature (Northern Ireland) Act 1978(4) (which provide a

(2) [2018 c. 12](#); section 3(9) was amended by paragraph 4(3) of Schedule 2 to the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 ([S.I. 2019/419](#)).

(3) [1981 c. 54](#).

special procedure for the issue of such writs so as to be in force throughout the United Kingdom) applies in respect of fitness to practise proceedings before a Panel in England and Wales or, as the case may be, in Northern Ireland as those provisions apply in respect of causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.

(4) For the purpose of fitness to practise proceedings before a Panel in Scotland, the Panel may administer oaths and the Court of Session will on the application of any party to the proceedings have the like power as in any action in that court—

- (a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Panel and for the issue of letters of second diligence against any witness or haver failing to appear after due citation,
- (b) to grant warrant for the recovery of documents, and
- (c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

(5) No person shall be compelled under any of the provisions in [this paragraph](#) to produce any document described in [paragraph 7\(5\)](#).