

PRACTICE NOTE - RESTORATION

INTRODUCTION

Article 33(1) of the Health Professions Order 2001 (the 2001 Order) provides that ‘Where a person who has been struck off the register by virtue of an order made by a Practice Committee or the court wishes to be restored to the register, he shall make an application for restoration to the Register.’

This practice note sets out the process which should be followed when an applicant applies for restoration to the register.

PROCEDURE

There are certain limitations on when an application for restoration to the register can be made.

If a person has been struck off the register, an application for restoration can not be made until a period of five years has elapsed. This applies when the Committee hearing the case originally imposed a striking off order and when a committee, on review of a case, imposes a striking off order.

If a person has already made an application for restoration in the preceeding 12 months, a further application cannot be made until a further 12 months have elapsed.

An application will be considered in accordance with Article 33 of the 2001 Order. The person making the application will be informed of their right to appear before the Committee to put their case as to why they should be restored to the register. The applicant will also be given not less than 28 days notice of the hearing.

Restoration hearings proceed in the same way as normal hearings, in that the following provisions of Article 32of the order apply:

- (a) the applicant has the right to appear and be represented;
- (b) any person with interests in the proceedings may be invited to submit written representations;
- (c) the hearing is normally held in public;
- (d) the applicant has right of appeal against the decision;
- (e) the Committee may compel that persons (other than the applicant) to attend and give evidence;
- (f) if any witnesses are called to give evidence, that evidence is given under oath.

The order of proceedings is that the applicant will present the case for restoration first and the Solicitor for the HPC will speak last. The application will be heard by a panel of the Committee which made the striking off order.

When considering an application for restoration, the Panel considering the application need to be satisfied that the applicant:

- (a) satisfies the requirements of Article 9(2)(a) and (b) of the 2001 order (this article sets out the grounds upon which an individual may be registered); and
- (b) is a fit and proper person to practise the relevant profession.

The Panel must take into account the circumstances that led to the person being removed from the register in the first place and may also take into account any submissions the applicant makes in support of their application for restoration.

When the Panel is considering whether an application for restoration should be granted, they may wish to afford a person who has an interest in the proceedings the opportunity to make written representations. This could include character references, employment references or submissions from parties involved in the original hearing. This list is not exhaustive. However, the Panel should also take into bear in mind that it is the applicant's task to prove to the Panel that he or she should be restored to the register.

If the Panel determine that the person is a fit and proper person to be restored to the register, they may grant the application provided that the applicant can satisfy any additional training, education and experience that the Council has specified. This could, for example, mean meeting any requirement the Council has specified with regards to returning to practice after a period out of practice.

If the Panel grants the application for restoration, the applicant will need to pay the prescribed fee and meet the requirements of Article 6 of the 2001 Order. The application can also be made subject to Conditions of Practice. When considering appropriate conditions, the Panel should have regard to the Council's Practice Note on Sanctions. The Panel may also specify that any application for any conditions cannot be made within the first two years of the conditions being applied.

The Panel may decide that the person should not be restored to the register. If this occurs the applicant may appeal to the appropriate court. Further, if the applicant makes any future applications for restoration to the register, such an application cannot be made within 3 years of the date of the first application, and no further application after that point can be made until a further 3 years has passed. The Panel can also decide that no subsequent application for restoration are to be made.