

PROTOCOL ON HANDLING OF PROFESSIONAL REGISTRATION CASES

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This protocol presumes that the representation of member's at all professional registration hearings will be conducted by a case officer in the Professional Registration Representation Unit (PRRU), subject to capacity. This can only work effectively where branches, regions and the unit work together in partnership. This protocol therefore sets out the responsibilities and actions that are required of branches and regions throughout the period during which the member is supported by the PRRU

The Protocol is designed to ensure that UNISON members receive the best possible representation at Regional or National level.

The professional registration cases covered by this protocol are all of those governed by the professional registration bodies
Further information on professional registration bodies are covered in Appendix A.

The protocol does not apply to cases involving the barring of a member by the Independent Safeguarding Authority (ISA). These cases will continue to be the responsibility of branches and regions, save for the exception referred to in ISA REFERRALS (see below).

Support to Members

The support and assistance provided to all members under the protocol will be in accordance with the guidance set out in UNISON's Representation Guide (stock no 2426). Usually, the referral of a complaint to a registration body will arise from the completion of a disciplinary hearing by the employer – although in some cases a referral could be made before a disciplinary process has been completed. It follows therefore that in the majority of cases, the first contact a member makes with their UNISON branch to seek help will be in connection with a disciplinary process initiated by the employer.

Any request for advice and support received by the PRRU from members will be referred to the branch in the first instance.

When dealing with a disciplinary case, the branch representative should inform any member covered by a registration body that it is open to the employer, or to a third party (for example a patient or client), to report any allegation/complaint to the professional body at any stage. The first time the member may be informed of any allegations/complaint is when the professional body writes to advise that they have received an allegation/complaint. The member should be advised that they should contact the branch as soon as they know an allegation/complaint has been referred to a professional body.

The branch must notify the regional office without delay following notification that a member is being investigated by their professional body. Section "The responsibilities of branches" sets out the action that branches should take at this stage.

Regions have a responsibility to advise branches on cases that involve matters of professional representation. While regional staff will refer any case involving the

representation of the member at a hearing before the professional body to the PRRU, regional staff have a responsibility to assist the branch and member to gather key information that will assist in any future hearing, and to assess the merits of the case. These responsibilities are explained in the section “The responsibilities of regions”

The responsibilities of branches

Branches play a vital role in representing members. Often, effective representation in a disciplinary or capability hearing can avoid the need for the employer to report a concern to the professional body. But be aware that even where the outcome of a local disciplinary hearing has enabled the member to continue working as a professional, it is possible that the registration body with its responsibilities to maintain professional standards and public confidence, can take a different and more severe view leading to the member being struck off the register as a professional and over-riding the decision of the employer.

It is therefore vitally important that branch representatives are trained in member representation and are aware of this brief guidance.

If a member has to appear before their professional body, they will be represented by a case officer from UNISON’s Professional Registration Representation Unit. Cases are referred to the unit by a regional organiser only after they have complied with this protocol. Throughout the process, however, the branch will be kept informed. The branch has a vital role, from being the first point of contact with the member to noting and acting on any issues highlighted by the case that might protect other members in the future.

Provided that the branch approaches each case in a systematic manner, then we can be assured that the member will be provided the high standard of support that UNISON is noted for and is, for many members, their principal reason for joining UNISON.

Checklist of what branches should do. Branches should:

1. Complete the case form – the branch should help every member seeking assistance to complete fully a standard UNISON case form. A completed case form is a requirement in all cases.
2. Check membership details against RMS.
3. Ensure that the member maintains their UNISON contributions during the whole of the period they are being assisted by UNISON
4. When representing in a disciplinary case, inform the member to contact the branch immediately they are notified of an investigation by the registration body
5. **Alert the region in the event of any member reporting they have received notification of a professional body investigation or a notice inviting them to attend an Interim Order Hearing**
6. Alert the region immediately if the member has received notice from ISA Vetting & Barring Scheme inviting them to make representation in writing
7. Discuss with the member the outcome sought in the light of the outcome of the disciplinary hearing, and review the member’s answer to question 8 on the case form – (*“What would be a solution to your problem – please say how you want UNISON to help you”*)
8. When referring a case to the region for representation before a professional body, provide to the region:
 - a. The updated case form describing all actions taken by the branch

- b. Copies of all evidence used in any internal disciplinary hearing by the employer and member.
 - c. Contact details of any potential witnesses and how they could assist the member
 - d. All correspondence received from registration body
 - e. Medical evidence if required
9. Payment of any specialist report required by the PRRU case officer (the need for such a report will be discussed with the branch before hand)
 10. Payment of travel costs, overnight accommodation and subsistence, as appropriate, to the member and witnesses in connection with any hearing

The responsibilities of regions

Regions are expected to provide initial advice to branches and members. It is acknowledged that in some cases a regional organiser may be involved in the employer-level disciplinary process and should therefore note the importance of alerting the member to the possibility and implications of a referral to the professional body.

Regions are expected to manage all processes involving any case referred by a branch through the CASE system, recording all transactions including correspondence, verbal advice and an assessment of the case. Access to the CASE record is invaluable to the PRRU case officer.

It is essential that regions alert the PRRU as speedily as possible when notified of any member whose case is being investigated by their professional body.

Throughout the conduct of a member's case, PRRU staff and the regional organiser will work in partnership. The regional organiser will be kept informed of key developments and may be requested from time to time to gather further information on behalf of the PRRU case officer.

Equally the Regional Organiser must inform the PRRU case officer of any local developments that may have a bearing on the case.

Checklist of what regions should do before any case is referred to the PRRU. Regions should:

1. Check and ensure that all questions on the case form have been completed by the branch
2. Re-check the membership details against RMS
3. **Alert the PRRU immediately if the member has received notice from the investigating or preliminary proceedings committee inviting them to attend a hearing. Note - normally only 7 – 14 notice will be given of an Interims Order Hearing. Substantive hearings will always take priority for representation by PRRU case officers. In some cases, therefore, the Regional Organiser will be asked to represent the member at their IO hearing and the PRRU will provide advice.**
4. Do not agree any substantive hearing dates without speaking to a PRRU Officer.
5. Inform Registration Body that UNISON is representing the member
6. Discuss the case with the branch, and where appropriate the member, and make an assessment of the case in light of the most recent evidence and the outcome of any disciplinary hearing

7. Create a new Fitness to Practise file on CASE and manage and record all correspondence, conversations and advice in the CASE file. The case must be at the Proceed stage before the case will be accepted by PRRU.
8. Forward hard copy documents to the head of PRRU as follows:
 - a. A completed FTP Case Referral Form
 - b. Copy of letter from registration body detailing allegations, an indexed bundle of all relevant documents including evidence used in internal disciplinary hearings, transcripts of such hearings where available, statements of case, copies of any correspondence, witness statements, contact details for the member, branch representative(s), contact details of witnesses to the facts, contact details of witnesses to character, medical evidence, exhibits.
 - c. A report from the regional organiser detailing the background to the case, the allegations, the RO's view of the merits, details of each stage of the process to date, and highlighting any deadlines or time limits. Note the regional organiser is expected to have provided advice to the member and local representative *before* any decision is made to refer a case to PRRU
 - d. Copies of all pleadings to date (e.g. any prior interim hearing submission and associated correspondence)
 - e. Information on the member's Employment Tribunal case where relevant
 - f. In **Competency cases** the following additional information is required:
 - i. Details of the incidents that led to allegation that the member's fitness to practise is impaired.
 - ii. Evidence that the member was made aware of the allegation.
 - iii. Evidence the member was given the opportunity to answer the allegations and complaints made against them.
 - iv. Evidence the member was given the opportunity to improve their performance e.g. objectives, plans, appraisal records.
 - v. Copies of all correspondence relating to any preliminary investigations, meetings or counselling
 - g. In **Health cases** the following additional information is required:
 - i. Name and address of members GP or Consultant
 - ii. Signed authorisation member medical records to be made available to UNISON representative(s) and registration body
 - iii. List of any medication member is taking.
 - iv. List of any treatments member has completed or receiving
 - v. Details of any inpatient hospitalisation which is relevant to the case
 - vi. Details of any outpatient treatments, past or continuing that are relevant to the case
 - vii. Details of any self help groups which may be assisting the member with their recovery e.g. Alcoholics Anonymous

ISA Referrals

If a members case involves referral to ISA only, it will be the Branch and Regional Organiser's responsibility to assist the member with their case preparation and written representation as listed above.

If the member is being referred to both ISA and their Registration Body or PRRU is already dealing with the Registration Body case, regions should send the ISA referral to PRRU.

For information:

APPEALS to Care Standards Tribunal or High Court

UNISON will not automatically support a member's appeal.

The Head of PRRU will consider the merits of the case in deciding whether UNISON supports the appeal or not.

WITHDRAWAL OF SUPPORT

In common with UNISON practise and in consultation with the Regional Organiser, the unit may not support the member if:

- The individual was not a member 4 weeks prior to the incident leading to the allegations.
- The member ceases to maintain UNISON contributions whilst UNISON is supporting their case.
- The member refuses to accept the advice of the Regional Organiser or PRRU Officer
- The member gives misleading evidence about their case
- The member fails to respond to any communication or correspondence from UNISON
- The member has instructed a private solicitor to act as a representative.
- The member fails to attend any scheduled hearing
- The Head of PRRU forms the view that there are insufficient merits to continue the case

If a decision is made to withdraw support and representation the member will receive a written explanation.

APPENDIX A

INFORMATION ABOUT THE REGISTRATION BODIES

What is the role of a Registration Body?

Registration Bodies have a responsibility (some of them statutory) to ensure that all registrants are fit to practise. This means that all registrants are not impaired through ill health, inappropriate conduct or lack of competency to perform their duties and responsibilities.

Each of the registration bodies has codes of conduct which relate to the practise of individuals on their register.

The functions of these codes of conduct are to protect the public, to promote high standards of practise, conduct and competence.

Who can refer individuals to the Registration Bodies?

Members of the public including services users and relatives of service users, patients, clients, the police and employers can complain to a registration body about a member's fitness to practise. They have five broad categories of complaints that are dealt with by registration bodies.

Physical or Mental Health where it affects practise

Misconduct both within and outside the workplace

Lack of competency to practise

Removal from the register by another registration body

A conviction or caution for a criminal offence.

How Do Registration Bodies deal with referrals?

Whilst there are some differences in terminology, all registration bodies have some form of vetting process that decides whether a complaint is valid and should proceed.

Most registration bodies will try to hold hearings in the region in which the member is resident, however the majority of hearings are held in London.

Depending on which registration body is hearing the member's case, substantive hearings can take between 3 – 6 months to be heard, although some cases can take up to 12 months or more.

Whilst there are some differences in the terminology the registration bodies can impose a range of sanctions on the member

All fitness to practise and conduct cases are held in public, with the exception of Health panel hearings which are held in private.

The registration body will advise the media through press releases of the date, venue and nature of allegations of all hearings. It is possible therefore that the hearing will be reported in the local and on occasion the national press.

PROFESSIONAL REGISTRATION BODIES

Nursing and Midwifery Council

Health Professions Council

Royal Pharmaceutical Society of Great Britain

Pharmaceutical Society of Northern Ireland

General Dental Council

General Medical Council
General Optical Council
General Osteopathic Council
General Chiropractic Council
General Social Care Council
Scottish Social Services Council
Care Council for Wales
Northern Ireland Social Care Council

TYPES OF HEARINGS & MEETINGS

Preliminary Proceedings Committee

In the case of the GSCC this committee will decide whether to impose an Interim Suspension Order (equivalent to an IO). If an ISO is imposed the member will not be able to practice for the duration of that order. The PPC will review ISO's when they come up to expiry to see if they should be extended or revoked.

Preliminary Proceedings Committees also have the power to hold preliminary hearings in private with the parties for the purpose of case management. In most fitness to practice cases such a hearing will not be required, but they are of assistance in the small number of cases where substantial evidential or procedural issues need to be resolved prior to a full hearing taking place.

Investigating Committee

Panels of the Investigating Committee (IC) are responsible for considering all allegations made to the registration body regarding the member's unfitness to practise.

The IC can best be described as a screening process. An IC panel usually comprises members of the registration body and lay panels. There will also be a registered medical practitioner for cases where the registrant's health may have a bearing on proceedings.

The Investigating committee will also deal with cases where an entry to the register may have been made fraudulently or incorrectly

IC proceedings are held in private. It would not be fair to members who had unjustly been reported if their names were publicised at this stage. Once it has considered all the available evidence, the IC panel has a range of powers. It can:

- close the case with no further action taken
- refer the case to a panel of the CCC in cases about alleged impairment of fitness to practise
- refer the case to a panel of the HC for reasons of ill health

Interim Orders/Interim Suspension Order

If the Council feels that the allegation is serious enough that the public might need some type of immediate protection, they might make an application for an interim order. If this happens, a hearing will take place, often at short notice, **(usually 7 – 14 days notice given)** A panel will consider whether the allegation means placing conditions on the members registration or suspending the members registration in the period before a final hearing will take place. Unless an interim order/interim

suspension order has been imposed, members who are awaiting a hearing are allowed to continue practising.

Conduct & Competence

Panels of the Conduct and Competence Committee (CCC) consider allegations referred to them by the Investigating Committee (IC) or the Health Committee (HC). (CCC) hearings are generally held in public; the openness of the proceedings reflects the registration body's public accountability. The CCC panel may agree to parts of the case being held in private, if by doing so, it protects the anonymity of the person who is the alleged victim, or if disclosure of confidential medical evidence is involved. A panel must consist of at least three people. It must include a lay member and a 'due regard'. A due regard member has expertise in the area of practice of the person appearing before the committee (i.e. the respondent).

The panel will decide whether a member's fitness to practise is impaired by reason of:

- Misconduct
- Lack of competence
- A criminal offence (convictions & cautions)
- Mental or physical health
- A determination by a health professions body in the UK that fitness to practise is impaired

The investigating panel will give reasons for their decision in writing.

If the investigating committee decides that there is a case to answer the information is in the public domain, however, the registration body will not publicise the information until four weeks before the final hearing date. At that stage the name of the member, their registration number and the allegation will be on their website.

Health Committee

Panels of the Health Committee (HC) decide whether or not a member's fitness to practise is impaired by physical or mental ill health and, if so, what is the appropriate sanction required to protect the public.

Because of the confidential nature of the medical evidence considered, HC proceedings are held in private. In some cases the HC panel comprises of at least five people, (who may be a registrant or lay person). There will also be a registered medical practitioner present.

Substantive Hearing Review

If the member has been subject to a Conditions of Practise Order or Suspension Order, CCC or HC will determine whether any further sanctions need to be applied. At this point the member could be struck off if they have not complied with the order.

Restoration

The Conduct & Competence Committee will hold a formal hearing to consider the registrants application for restoration.

This panel will only hear applications in person.

These hearings take place in public which means the press may be present

Registrants can usually apply for restoration to the register 5years after strike off

Appeals to CST or High Court

Grounds for appeal are based on the following:

Points of Law i.e. the procedures were not followed

New Evidence i.e. new evidence which would make a substantial difference to the case

Perverse Decision i.e. the panel ignored the evidence

Within Time Limit i.e. 28 days to appeal

SANCTIONS

Admonishment /Caution

Highlights the seriousness of the member's professional misconduct without preventing them from practising.

Future employers will be alerted to the caution and will be informed as to why it was imposed.

Cautions can be imposed for between 1 – 5 years.

Erasure/Strike off/Removal

Removes the members name from the register for an indefinite period of time.

Prevents member from any employment that requires registration.

Members who are subject to a striking off order may not apply to restore their name to the register for a period of 5 years.

Condition on Registration/Conditions of Practice

Only imposed in instances where the member agrees to be bound by a set of agreed conditions. This may include further training or working under supervision. The member must work within the conditions imposed by the panel.

An order can be revoked, modified or replaced with a different order if circumstances indicate that it is appropriate

Interim Order/Interim Suspension Order

Prevents the member from working as registered practitioners until their case is disposed off.

Suspensions can be imposed for up to 18 months but must be reviewed after six months and every 3 months thereafter.

An order can be revoked, modified or replaced with a different order if circumstances indicate that it is appropriate

Suspension Order

Can be made for anytime not to exceed one year.

The member is not able to practise during a period of suspension

No Sanction/Take no Further Action

The panel has gone through the Fitness to Practise process and found the member impaired, however they have decided not to impose a sanction or take any further action.

APPENDIX B INDEPENDENT SAFEGUARDING AUTHORITY

Note. This is a new scheme being introduced in phases by the ISA. UNISON is lobbying government for changes in the scheme, in particular with regard to the cost of registration, issues of duplication where the individual is also required to register with a professional body, and over the right to a fair hearing.

As progress is made on these issues this section will be updated.

In the meantime, if you have any query about the ISA Vetting & Barring Scheme, please consult the UNISON web-site or contact the PRRU for information.

What is the role of the ISA Vetting & Barring Scheme?

The purpose of the Vetting & Barring Scheme is to reduce the risk of harm to children and vulnerable adults by preventing as far as possible those individuals judged by the Vetting & Barring Scheme to be unsuitable to work with children and vulnerable adults to gain access to them through employment or volunteering.

Who can refer individuals to the Vetting & Barring Scheme

Information will be gathered through a number of sources including Police, Employers, Local Authorities (Health and Social Care Trusts and Education and Library Boards in Northern Ireland), and Professional Registration Bodies

How does the Vetting & Barring Scheme deal with referrals

Vetting & Barring Scheme case workers will go through information from referrals using the Barring Decision Process. This process includes an Initial assessment, Evidence evaluation and Case assessment. If they feel there is a case to answer the Vetting & Barring Scheme will inform the member who will then have 8 weeks to make representations in writing as to why they should not be barred.

The Vetting & Barring Scheme do not hear representations in person