



Dental  
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# **Guidance on admissions made at the preliminary stage of fitness to practise hearings**



# Guidance on admissions made at the preliminary stage of fitness to practise hearings

(pursuant to Rule 17(4) and (5) of the Fitness to Practise Rules 2006 (as amended))

## Part 1: Introduction

- 1.1 The purpose of this document is to provide guidance in relation to the making of admissions by registrants at the outset of fitness to practise hearings and the process to be adopted by practice committees, in the exercise of their powers and functions.
- 1.2 This guidance will assist practice committees in determining facts that are made by way of admission at the outset of a hearing, without the need for the General Dental Council (“GDC”) case presenter to adduce any additional evidence. In all adjudicatory contexts (including courts, tribunals, and arbitrations) it is routine for findings of fact to be based on admissions, and to be recorded as such at the outset in order to focus on the matters which are in dispute. This makes legal and practical sense, and such an approach will streamline the GDC’s fitness to practise hearings.
- 1.3 The basis for and process for adopting such an approach to admissions is set out below.

## Part 2: Admissions – legal framework

- 2.1 Fitness to practise proceedings are governed by the Dentists Act 1984 (“the Act”) and the Fitness to Practise Rules 2006 (as amended) (“the Rules”). Part 3 of the Rules sets out the procedure to be adopted at fitness to practise hearings.
- 2.2 The Rules set out that a practice committee shall conduct a hearing in four stages:
  - (a) the preliminary stage
  - (b) the factual inquiry
  - (c) submissions by the parties
  - (d) the determination of the case.<sup>1</sup>

- 2.3 Rules 17 and 18 set out the matters that are to be dealt with at the preliminary stage, prior to the commencement of the factual inquiry.
- 2.4 During the preliminary stage, under Rule 17, practice committees deal with preliminary matters such as abuse of process arguments, special arrangements for vulnerable witnesses, proceeding in private and amendments to the Charge.<sup>2</sup>
- 2.5 Additionally, before the GDC case presenter opens the GDC's case, the practice committee asks the registrant to indicate whether any of the heads of charge are admitted (in whole or in part).
- 2.6 **In particular, Rule 17(4) requires practice committees to deal with:** "any ... admissions<sup>3</sup> ... and make determinations in respect of them before commencement of the factual inquiry". Rule 17(5) states that "The Chairman of a Practice Committee shall inform the parties of the determinations made under paragraph (4)".
- 2.7 In respect of the heads of charge that are admitted, no further factual inquiry is required and that is the extent of the factual inquiry process. This is because the practice committee makes "determinations" in respect of such heads of charge (based on admission(s)). Under Rule 17(5), notice of any such "determinations" must be given to the parties before the process moves on to the factual inquiry stage.
- 2.8 The factual inquiry commences when the GDC case presenter opens the case and proceeds to present evidence to prove the heads of charge. Accordingly, no evidence (written or oral) in respect of the admitted heads of charge need be presented within the factual inquiry under Rule 19. The references in Rule 19 to the presentation of evidence refers only to evidence on only those charges that remain in dispute.
- 2.9 Whilst Rule 57(4) states that it shall be for the GDC to "prove any fact alleged in the notification of hearing", that requirement must be taken to exclude facts that are admitted pursuant to Rule 17(4) and, in effect, the GDC discharges the obligation to "prove" an alleged fact by reliance on the registrant's formal admission of its truth at the preliminary stage.
- 2.10 When, under Rule 19(12), the factual inquiry culminates in the announcement of "findings of fact" by the practice committee, it should include the admitted facts that were determined at the preliminary stage.

2 The charge is the grounds by reason of which, it is alleged that a registrant's fitness to practise is impaired pursuant to Rule 13.

3 This relates to admissions of fact as opposed to admissions of misconduct and/or impairment which are determined in the normal way in accordance with Rule 20 (i.e. the submissions stage).

## Part 3: Admissions – outline of the process

- 3.1 The process for the making and determination of admissions is therefore as follows (see also flow chart at Appendix 1):
- 3.1.1 At the preliminary stage, after any other preliminary matters have been dealt with, the practice committee should ask the registrant (or the registrant's representative), whether they admit any of the heads of charge set out in the Charge (Rule 17(4)). The process for dealing with admissions of heads of charge that are admitted on a different factual basis to those set out in the Charge is dealt with at Part 4 below.
- 3.1.2 Following the admission of any of the heads of charge, in accordance with Rule 17(5), the practice committee proceeds to determine those facts based on the admission(s). It is envisaged that this will result in the facts being found proved on the basis of the admission(s) without the need to adduce any further evidence.
- 3.1.3 In some rare instances, the practice committee may determine that a registrant's admissions are not found proved, for instance if they are concerned that any admissions are being made under duress or if a registrant is unrepresented and they satisfy themselves that a registrant has not understood the basis for, or the consequences of the admission. In such rare cases, where the practice committee determine not to accept the admission(s), the practice committee should set out its reasons why it has not accepted the admission(s). In such circumstances, the GDC case presenter should proceed to adduce evidence at the factual enquiry stage in respect of those admission(s) that have not been determined as being found proved, along with any other heads of charge that remain in dispute.
- 3.1.4 The hearing will then move to the factual inquiry stage (in accordance with Rule 19) and the GDC case presenter will open the GDC's case and proceed to present evidence in relation to the remainder of the heads of charge that remain in dispute (i.e. save for those that have been admitted and determined as being found proved). Should any admissions be made once the factual enquiry has commenced, whilst these may be accepted, they cannot be determined before the end of the factual enquiry (as it is only possible to do that at the preliminary stage). In such circumstances, the GDC case presenter should adduce the relevant evidence in the usual way.
- 3.1.5 After all the evidence has been presented by both parties, at the stage the practice committee announce their findings of fact (Rule 19(12)), the practice committee will announce the admitted facts as well as any other facts found proved.
- 3.1.6 Following this, the hearing moves to the stage of "submissions by the parties" in the usual way (in accordance with Rule 20).

## **Part 4: Admissions – circumstances when the admitted facts are different to the heads of charge contained in the Charge (see flow chart at Appendix 2)**

- 4.1 There may be some circumstances in which the registrant admits heads of charge on a different factual basis to those set out in the Charge.
- 4.2 As it is the regulator who brings the case on behalf of the public, it is for the GDC to decide whether such an admission is sufficient to protect the public interest (which includes protection of the public), taking into account the GDC's overriding statutory objective<sup>4</sup>.
- 4.3 If the GDC decides that the admission is regarded as sufficient to protect the public interest, a joint application should be made by the parties to the practice committee to amend the Charge under Rule 18(1) at the preliminary stage, prior to commencement of the factual inquiry (as above). If that application is granted, the admission will prompt a "determination" of the amended Charge by the practice committee, as described above, and, if accepted and found proved, no evidence on the original (substituted) Charge need be adduced.
- 4.4 If the GDC regards the admission as insufficient to protect the public interest, the registrant remains entitled to apply to the practice committee for the Charge to be amended to reflect the extent of the admission(s) (again, this is done at the preliminary stage). In such circumstances, this application will likely be opposed by the GDC. If the application is granted, however, the process set out above applies. If it is refused, the admission will prompt no "determination" and the GDC will proceed to prove the original (unamended) Charge in the normal way.
- 4.5 If the GDC regards admissions which are made on a different factual basis as partly sufficient and partly insufficient to protect the public interest, a hybrid approach may be appropriate. As set out above, the parties should make an application to amend the Charge in respect of those aspects that are agreed. If the practice committee agrees, the Charge should be split so as to divide the two elements. The acceptable admission(s) will prompt a "determination" of that element of the amended Charge (as set out above). The unacceptable admission(s) will prompt no such "determination" and will remain to be proved in the usual way. In these circumstances partial admissions can be accepted.

<sup>4</sup> see section 1(1ZA) and 1(1ZB) of the Act.

## Part 5: Conclusion

- 5.1 For the avoidance of doubt, the GDC will not cease to pursue some heads of charge purely on the basis that admissions have been made in respect of other heads of charge.
- 5.2 The process set out above, allows for either full or partial admissions to be made, as well as for admissions to be made and accepted on a different factual basis to that set out in the Charge. In all circumstances, the decision as to which heads of charge presented to a practice committee are pursued, lies with the GDC.

## Appendix 1 – Process for the making and determination of admissions

### Preliminary stage – making admissions [Rule 17(4)]

- If there are any other preliminary matters, these are dealt with first.
- The practice committee then asks the registrant, or their representative, whether they admit any of the heads of charge set out in the Charge.

**Has the registrant made any admissions?**



**Yes**

**Is the practice committee satisfied that the admissions, are not made under duress and the registrant has understood the basis for, and consequences of, the admissions?**



**Yes**

**Are the registrant's admissions, full admissions in relation to some, or all, of the heads of charge, or partial admissions?**



#### Full admissions

##### Preliminary stage continued – determination [Rule 17(5)]

- If admissions are made, the practice committee proceeds to determine the admitted facts.
- The admitted facts are found proved on the basis of the admissions without the need to adduce any further evidence.
- The hearing then moves on to the factual inquiry stage.



#### Partial admissions

- See Appendix 2 for the process for dealing with admissions of heads of charge that are admitted on a different factual basis to those set out in the Charge.
- Once partial admissions have been dealt with, the practice committee proceeds to determine the admitted facts.
- The admitted facts are found proved on the basis of the admissions without the need to adduce any further evidence.
- The hearing then moves on to the factual inquiry stage.



**No**

**If none of the heads of charge are admitted, the hearing proceeds to the factual inquiry stage.**



**No**

**If none of the heads of charge are admitted, the hearing proceeds to the factual inquiry stage.**



### The factual inquiry stage [Rule 19]

- The GDC case presenter opens the GDC's case and presents evidence in relation to the heads of charge that remain in dispute or have not been found proved (i.e. save for those that have been admitted and determined as being found proved).
- The usual factual inquiry process set out in Rule 19 is followed in relation to all the heads of charge that have not been found proved by way of admission.
- If further admissions are made at this stage, the practice committee will not determine these until the end of the factual inquiry.



### Announcement of findings of fact [Rule 19(12)]

- Announcement of findings of fact [Rule 19(12)].
- After all the evidence has been presented by both parties in relation to non-admitted facts that have not been determined at the preliminary stage, the practice committee announce the admitted facts as well as any other facts found proved.

## Appendix 2 – Process for the making and determination of partial admissions

