



# Healthcare Science (HCS) Registration Council Restoration Rules 2019

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# Contents

<b>Introduction</b>	<b>3</b>
<b>When a restoration application can be made</b>	<b>3</b>
<b>Procedure</b>	<b>3</b>
<b>Issues for the panel</b>	<b>3</b>
<b>Conditional restoration</b>	<b>4</b>
<b>Drafting Restoration Orders</b>	<b>4</b>
<b>Notice of decision</b>	<b>5</b>

## Introduction

1. Applications for restoration to the Register shall be made in writing to the Registrar. The Registrar will refer all restoration applications to the Fitness to Practise Panel established under rule 5 of the Fitness to Practise Rules and which made the original removal order.
2. If members of the original Fitness to Practise Panel are not available, the Council may appoint alternative members in accordance with the Fitness to Practise Rules.

## When a restoration application can be made

3. An application for restoration to the Register cannot be made until five years have elapsed since the removal order came into force. In addition, a person may not make more than one application for restoration in any period of twelve months.
4. If a person makes two or more applications for restoration which are refused, the Panel refusing the second application may, by direction, suspend the applicant's right to make further restoration applications. If such a direction is given, the applicant may apply to have it reviewed three years after it was made, and at three yearly intervals thereafter.
5. These time constraints do not prevent the panel from reviewing a removal order at any time if new evidence comes to light which is relevant to the making of that order. A review of this kind should be treated in all other respects as if it was an application for restoration.

## Procedure

6. For restoration applications to be considered at a hearing before a Panel, the procedure to be followed will generally be the same as for Fitness to Practise proceedings described in the Fitness to Practise Rules.
7. A Panel may hold preliminary hearings, order the production of documents or the attendance of witnesses as they consider appropriate.
8. Although any hearing should be conducted in the normal manner, the Panel must adopt an order of proceedings which provides for the applicant to present his case first and for the Registration Council Case Officer to speak after that. This modification reflects the fact that, in applying for restoration, the burden of proof is on the applicant. Panels should always make it clear to applicants that this burden means it is for the applicant to prove that they should be restored to the Register and not for the Registration Council to prove the contrary.
9. Although the procedural rules require the applicant to present their case first, at the beginning of a hearing the Registration Council Case Officer may set out the history of the case and the circumstances which led to a removal order being made.
10. The Case Officer's comments must be limited to background information and should not include any substantive arguments which the Registration Council wishes to put to the Panel in relation to the restoration application.

## Issues for the panel

11. A Panel must not grant an application for restoration unless it is satisfied on

such evidence as it may require, that the applicant:

- meets the general requirements for registration; and
  - is a fit and proper person to practise the relevant profession, having regard to the circumstances that led to removal.
12. Removal is a sanction of last resort, which is only used in cases involving serious, deliberate or reckless acts and where there may be a lack of insight, continuing problems or denial or where public protection in its widest sense cannot be secured by any lesser means.
13. The reasons why a person seeking restoration was originally removed from the Register will invariably be highly relevant to the Panel and it is insufficient for an applicant merely to establish that they meet the requisite standard of proficiency and the other general requirements for registration.
14. An application for restoration is not an appeal from, or review of, the original decision and Panels should avoid being drawn into the justification for the findings of the original Panel or the sanction it imposed. However, in determining applications for restoration, the issues which a Panel should consider include:
- the matters which led to removal and the reasons given by the original Panel for imposing that sanction;
  - whether the applicant accepts and has insight into those matters;
  - whether the applicant has resolved those matters, has the willingness and ability to do so, or whether they are capable of being resolved by the applicant;
  - what other remedial or rehabilitative steps the applicant has taken;

- what steps the applicant has taken to keep his or her professional knowledge and skills up to date.

## Conditional restoration

15. If a Panel grants an application for restoration, it may do so unconditionally or subject to the applicant:
- meeting any applicable education and training requirements specified by the Council; or
  - complying with a conditions of practice order imposed by the Panel.
16. The only 'applicable education and training requirements' would be the requirements for 'returners to practice', which are generic requirements primarily designed for registrants who have taken a career break, but which are likely to be of only limited use in dealing with restoration cases. As with any other returning registrant, the 'return to practice' period would need to be satisfactorily completed before restoration could take place.
17. The alternative option, of replacing a removal order with a conditions of practice order, may provide a better and more flexible alternative in cases where Panels wish to impose specific requirements on a registrant who is being restored to the Register.
18. A conditions of practice order can be tailored to meet the specific needs of a case, can be reviewed and, if necessary, extended. Such an order also provides the added safeguard that swift action can be taken against the registrant if there is any breach of those conditions of practice.

## Drafting Restoration Orders

19. Where a Panel decides to restore a person to the Register, it must clearly

set out the Order which it has made, which should be addressed to the Registrar who must amend or annotate the Register as appropriate. Any such order should also provide for payment of the prescribed restoration fee. For example:

#### ORDER:

The Registrar is directed to restore [name] (the Applicant) to the [relevant profession] Part of the Register, but such restoration shall only take effect upon the Applicant paying the prescribed restoration fee [and providing evidence which satisfies the Registrar that the Applicant has successfully completed a [time] period of professional updating.

[The Registrar is further directed to annotate the Register to show that, for a period of [time] from the date that this Order takes effect (the Operative Date), [name] must comply with the following conditions of practice:

[set out the conditions].

#### Notice of decision

20. The Panel shall notify the appellant in writing of its decision and the reasons for reaching that decision within 7 days of the hearing.