



Home Office

**REGISTER
OF
FORENSIC PATHOLOGISTS**

DISCIPLINARY RULES

ISSUE 2 – JULY 2007

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INTRODUCTION

1. The Home Secretary has instituted a list, to be known as the Home Office Register^(DS), of appropriately qualified and experienced forensic pathologists who have attained a degree of experience and expertise deemed to be sufficiently high as to provide an appropriate medico-legal service in cases of unexpected or violent death in which a criminal act is suspected and are otherwise fit to practise.
2. The Pathology Council^(DS) acts on behalf of the Home Secretary to oversee the provision of forensic pathology services in England and Wales, to establish best practice for the speciality, and to encourage the development of the profession through the training of practitioners and the support of academic departments and relevant research.
3. The Delivery Board^(DS) acts on behalf of the Home Secretary to ensure the provision of effective forensic pathology services in England and Wales.
4. To ensure that the Register^(DS) can be relied on to indicate definitively which forensic pathologists are fit to practise^(DS), the Home Secretary and Pathology Council^(DS) have developed processes to deal with pathologists whose conduct, professional performance or state of health calls into question whether they should remain on the Register^(DS).
5. Those processes are set out in this document, which covers three main areas:
 - a. The Disciplinary Committee Rules^(DS), which set out the procedure for handling complaints up to the stage at which a case is referred to a Summary Hearing Panel^(DS) or a Disciplinary Tribunal^(DS);
 - b. The Summary Hearing Rules^(DS), which prescribe the procedure for hearing a case where the suspension or removal of a pathologist's registration is not contemplated; and
 - c. The Disciplinary Tribunal Rules^(DS), which prescribe the procedure for handling the most serious cases, with a range of sanctions which could include the removal of a pathologist's name from the Register^(DS).
6. Words in these Rules, which are defined in the Definitions Section, at paragraph 317, and used in that context are followed by “^(DS)”.
7. The Home Secretary may issue guidance to support the operation of these Rules.

PRINCIPLES

8. The operations of the Disciplinary Committee^(DS), Summary Hearing Panels^(DS) and Disciplinary Tribunals^(DS) shall be governed at all times by the following principles.
 - a. All procedures and processes must be fair, objective, transparent and free from discrimination.
 - b. The procedures will be subject to the rules of natural justice and, without prejudice to the question of whether Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms applies to the disciplinary proceedings relating to the Register^(DS), to the standards set out in section one therein.
 - c. All complaints will be handled and disposed of as promptly as reasonably practical.
 - d. The overall emphasis will be on the protection of the public by the promotion of good practice and by guarding against the risk of prejudicing criminal investigations or proceedings: as many complaints as possible (subject to the overriding requirement to protect the public interest) will be handled through advice, warnings, training or similar measures.
 - e. The Disciplinary Committee^(DS), Summary Hearing Panels^(DS) and Disciplinary Tribunals^(DS) will operate independently from the Pathology Council^(DS) and Delivery Board^(DS) and will be constituted to secure an appropriate balance of lay^(DS) and professional^(DS) opinion, under the chairmanship and/or with the assistance of a legally qualified^(DS) person.
 - f. No individual may adjudicate at more than one stage of a case.
 - g. Sanctions or action against a pathologist^(DS) resulting from disciplinary proceedings will be those the Disciplinary Committee^(DS), Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) judge most likely to serve the public interest and, where appropriate, to secure the pathologist's^(DS) future fitness to practise^(DS) as a registered forensic pathologist.

- h. A pathologist^(DS) answering an allegation will have the right to be legally represented, to be accompanied at a hearing by a friend, relative or colleague and to be kept informed of progress with the case in advance of hearings.
- i. Where action is taken against an individual following disciplinary proceedings, the Delivery Board^(DS) will monitor the outcome to ensure that the action has the intended effect.
9. The Pathology Council^(DS) will review policy matters in relation to the disciplinary procedures^(DS) and monitor their operation.
10. The purpose of the disciplinary procedures^(DS) is to ensure that the Register^(DS) of forensic pathologists continues to identify only those who are fit to practise^(DS). They provide a mechanism for remedial as well as punitive action, and enable the Pathology Council^(DS) to demonstrate to the public that the standards published in the Code of Practice^(DS) and Code of Conduct^(DS) as to professional performance and behaviour are being maintained.
11. In considering any allegation against a pathologist, the principal aims of the Disciplinary Committee^(DS), Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) will be (subject to the provisions of paragraph 10):
- a. To establish whether the facts are found proven; and if so,
- b. To establish that the pathologist's^(DS) conduct (including malpractice^(DS) and misconduct^(DS)), and/or his professional performance, and/or the state of his (physical or mental) health bring into question whether he is fit to be on the Register^(DS); and, if so,
- c. In the light of any relevant mitigating factors, to take the action which it deems necessary in the interests of the public and, where not in conflict with the public interest, of the pathologist^(DS).
12. The proceedings in any case will (subject to the provisions of paragraph 10) address only those issues which are directly relevant to the pathologist's^(DS) fitness to remain (or to have been) on the Register^(DS). They will operate separately from any other proceedings in which the same, or similar, facts or issues are being considered by a separate body.
13. A Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) will address only those issues which are raised in the allegations and charges formally notified to the pathologist^(DS), and, although they may consider in the same proceedings allegations or charges notified to the pathologist^(DS) on separate occasions, the pathologist^(DS) should be permitted an adjournment if he has not had a reasonable opportunity to consider any of the allegations or charges under consideration.
14. The Disciplinary Committee^(DS), a Summary Hearing Panel^(DS) or a Disciplinary Tribunal^(DS) may contact other bodies in relation to disciplinary action with the intention of co-ordinating investigations.
15. The Disciplinary Committee^(DS), a Summary Hearing Panel^(DS) or a Disciplinary Tribunal^(DS) may, exceptionally, decide to delay consideration of a complaint to allow completion of proceedings based on the same or similar matter by a separate body.
16. Disciplinary action against a pathologist^(DS) will be suspended if the matter that is the subject of the complaint has led to the criminal prosecution of the pathologist^(DS) or any other person and would interfere with that prosecution or would interfere with any criminal prosecution. The action will be re-instituted when the risk of impact on the criminal case has ended
17. The disciplinary procedures^(DS) have attempted to deal with the handling of complaints under all circumstances that can be envisaged. However, it is recognised that circumstances may arise that have not been foreseen or that cases may occur where following the disciplinary procedures^(DS) would (a) not be in the public interest; or (b) may not allow a fair hearing of the matter. The Chairman of the Delivery Board^(DS) (in relation to matters other than appeals) and the Chairman of the Pathology Council^(DS) (in relation to appeals) have, subject to the overriding principles set out in paragraph 8, the power to take any action, or authorise any action, which is, in their opinion, appropriate in the public interest or the interest of a fair hearing of the matter.
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MODIFICATION

18. The Disciplinary Rules and their operation shall be monitored by the Professional Standards Committee^(DS) and the Pathology Council^(DS). The Pathology Council^(DS), at the recommendation of the Professional Standards Committee^(DS), or at its own instance, may recommend, to the Home Secretary, such changes to these Rules as it considers appropriate. Such changes include additions, deletions and alterations to the existing rules and addition and removal of rules.
19. The Home Secretary has authority to amend these Rules or issue new rules. On the recommendation of the Pathology Council^(DS), or at his instance, the Home Secretary may amend these Rules, issue new versions of existing rules, add new rules or remove rules as he sees fit. In preparing new or amended rules the Home Secretary will normally consult the Pathology Council^(DS) but may act without such consultation.
20. Where these Rules are modified the new version of the Rules shall, subject to the right of the Home Secretary to implement such transitional arrangements as he deems appropriate, take effect on the date specified by the Home Secretary. The modified rules, subject to the right to implement transitional arrangements and the provisions of paragraph 21, shall apply to all complaints received after they become effective and all complaints received before they become active where no final determination has been reached.
21. Where a complaint against a pathologist^(DS) was received prior to the introduction of modified disciplinary procedures^(DS) but no final determination reached by the date the modified procedures become effective and the pathologist^(DS) believes the conditions set out below are met he may ask the Chairman of the Delivery Board^(DS) to act (under paragraph 17) to modify the procedures in use in his case to ensure a fair hearing of the matter. The conditions noted above are:
- The modified disciplinary procedures^(DS) lead to a significant difference in the consideration of the complaint against the pathologist^(DS);
 - The difference in the consideration of the complaint is such as to have a serious and adverse impact on the pathologist^(DS); and
 - As a consequence the pathologist^(DS) can not achieve a fair hearing under the modified disciplinary procedures^(DS).
22. If the Home Secretary issues guidance under the provisions of paragraph 7 the provisions of paragraphs 18 to 21 apply to such guidance.

STRUCTURE

23. This document sets out the Disciplinary Rules in the following format.

PART	PROVISIONS
Part A	Deals with the actions of the Delivery Board.
Part B	Sets out the Disciplinary Committee Rules.
Part C	Sets out the Summary Hearing Panel Rules.
Part D	Sets out the Disciplinary Tribunal Rules.
Part E	Sets out the Appeal Procedure.
Part F	The Secretary of State.
Part G	Deals with issues applying to the procedures in general.

PART A -THE DELIVERY BOARD**COMPLAINT****What is a Complaint?**

24. A complaint is any information provided to, or coming to the attention of, the Delivery Board^(DS) that suggests a pathologist is not fit to practise^(DS).
25. The Delivery Board^(DS) will not normally consider a complaint if the incident complained of occurred at a time when the pathologist^(DS) was not on the Register^(DS). The Delivery Board^(DS)

will only consider such a complaint if it is of a nature that has a direct impact on the question of whether the pathologist is fit to practise^(DS).

26. The Delivery Board^(DS) will not normally consider a complaint if the pathologist^(DS) is not on the Register^(DS) at the time the complaint is received.
27. The Delivery Board^(DS) will not normally take action in response to a complaint where the identity of the complainant can not be substantiated. However, where a complaint provides sufficient information to allow a proper investigation and suggests a serious failure on the part of a pathologist^(DS), the Delivery Board^(DS) may take action regardless of the fact the informant can not be identified.
28. Where the Delivery Board^(DS) does not consider a complaint for reasons set out in this section it shall retain information relating to the complaint. This information may be used in assessing any future application for registration from the pathologist^(DS).

Who can make a Complaint?

29. Any person or organisation, subject to the exceptions in paragraph 30 below, can make a complaint.
30. To protect the impartiality of the process the following may not make a formal complaint.
 - a. The Pathology Council^(DS) acting as such – although individual members, other than the Chairman of the Pathology Council^(DS) may make a complaint.
 - b. The Delivery Board^(DS) acting as such – although individual members, other than the Chairman of the Delivery Board^(DS) may make a complaint.
 - c. The Home Secretary or any Home Office Minister.
31. Persons and bodies prohibited from making a complaint by virtue of paragraph 30 may refer a matter to the Secretary^(DS) to the Delivery Board^(DS) for his determination as to whether a complaint is appropriate. Where the Secretary^(DS) decides a complaint is warranted he shall make the formal complaint.
32. Where information which could form the basis of a complaint comes to the attention of the Delivery Board^(DS), but not in the form of a complaint direct to the Delivery Board^(DS), it may be difficult to identify an individual to act as the complainant. In such cases the Secretary^(DS) to the Delivery Board^(DS) shall make the formal reference on behalf of the complainant. Examples include, but are not limited to, the following.
 - a. Criticism in the judgement of any court of law.
 - b. Criticism in the news media.
 - c. Criticism by any public or judicial inquiry.
 - d. Criticism by an appropriate professional or regulatory body.
 - e. Conviction by any criminal court.
33. A criticism, decision, determination, sanction or other action by a professional or regulatory body (or of any court reviewing such a matter) which leads to the pathologist^(DS) no longer being able to meet the requirements for registration (for example the removal of a licence to practise by the General Medical Council) shall not be dealt with under the disciplinary procedures^(DS). Such cases shall be dealt with by the Registration and Training Committee^(DS) as a failure to comply with registration requirements unless the matter is such as to make it legally or practically infeasible for the pathologist^(DS) to act as an expert witness. In the latter case the Chairman of the Delivery Board^(DS) may take such action as he deems appropriate.

ACTION ON RECEIPT OF A COMPLAINT

Disciplinary Committee

34. The Delivery Board^(DS) shall maintain a Disciplinary Committee^(DS) to deal with all disciplinary matters under these procedures.
35. The Delivery Board^(DS) shall determine, in accordance with the provisions set out in the paragraphs from 24, whether a complaint is valid.

Reference to the Disciplinary Committee

36. All valid complaints shall be referred to the Disciplinary Committee^(DS). The Disciplinary Committee^(DS) shall deal with complaints as set out in the Disciplinary Committee Rules^(DS).
37. If the information received by, or coming to the attention of, the Delivery Board^(DS) is not sufficiently clear to allow the Delivery Board^(DS) to ascertain whether it does form a complaint against a pathologist, or to ascertain the nature of the complaint, the Delivery Board^(DS) shall take such steps as are appropriate to allow the nature of the information and/or complaint to be determined. This may be done before the matter is referred to the Disciplinary Committee^(DS).
38. The Crown Prosecution Service is normally informed of the existence of a complaint at the point where the Disciplinary Committee^(DS) determine that (a) the complaint should be dismissed or no action taken upon it (see paragraph 71) or (b) where the Disciplinary Committee^(DS) determine that action should be taken (see paragraph 73). If it is clear to the Secretary^(DS) or Chairman of the Delivery Board^(DS) that the complaint raises serious issues for the Criminal Justice System either may authorise such disclosure to the Crown Prosecution Service as he considers appropriate.

Communication with Pathologist

39. When a valid complaint has been received, the Secretary^(DS) shall inform the pathologist^(DS) at the time it is referred to the Disciplinary Committee^(DS) or within a reasonable time thereafter. In that letter, the Secretary^(DS) will include a summary of the complaint and make it clear that no decision has been taken on whether the consideration of the complaint will proceed and seek the pathologist's^(DS) response to the complaint. The Secretary^(DS) will also explain that the Disciplinary Committee^(DS) may make further enquiries and that the purpose of such enquiries is to enable a decision to be taken on how to deal with the complaint. The Secretary^(DS) should enclose with the letter information as to how the disciplinary procedures^(DS) operate, including an offer to provide copies of the disciplinary procedures^(DS).
40. Once the matter has been referred to the Disciplinary Committee^(DS), communications with the pathologist^(DS) in relation to the disciplinary action will be directed to the Disciplinary Committee^(DS).

Communication with Complainant

41. The Secretary^(DS) shall write to the complainant, where there is a clearly identified complainant, to acknowledge receipt of the complaint.
42. In the letter of acknowledgement the Secretary^(DS) shall explain the operation of the disciplinary procedures^(DS) and that the matter has been referred to the Disciplinary Committee^(DS).

ACTION ON FINAL DETERMINATION

43. Upon final determination of the complaint by the Disciplinary Committee^(DS), Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), the finding and sanction shall be reported to the Chairman of the Delivery Board^(DS).
44. The final determination of any Appeal Panel^(DS) shall also be reported to the Chairman of the Delivery Board^(DS).
45. The Delivery Board^(DS) shall, in conjunction with the Disciplinary Committee^(DS) where appropriate, take such steps as are appropriate to give effect to the result of the disciplinary action. This may include, but not be limited to, the following.
- To modify the Register^(DS) to reflect any sanction.
 - To ensure all records of the action are held and records relating to the pathologist^(DS) are updated.
 - To ensure the responsibility for any ongoing action has been assigned and a plan for monitoring it established.

PART B - DISCIPLINARY COMMITTEE RULES**POWERS AND FUNCTIONS**

46. The powers and functions of the Disciplinary Committee^(DS) in relation to the disciplinary procedures^(DS) are:
- To commission investigation of, review and sift complaints against a pathologist^(DS);
 - Where any complaint has been made, to determine whether there is a prima facie case that the pathologist^(DS) is not fit to practise^(DS), and to deal with the matter in accordance with these Rules;
 - To deal summarily with allegations of misconduct^(DS) or malpractice^(DS) in accordance with these Rules;
 - To prefer allegations that the pathologist^(DS) is not fit to practise^(DS) before the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) as appropriate and to be responsible for presenting any such allegations before the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS);
 - To present appeals against sanctions imposed by a Disciplinary Tribunal^(DS) to an Appeal Panel^(DS);
 - To defend appeals by the pathologist^(DS) to an Appeal Panel^(DS);
 - To take such other actions in relation to complaints as are permitted by these Rules;
 - To ensure that so far as is compatible with the procedures, the complainant, the pathologist^(DS) and other interested parties are kept informed of the progress of the complaint; and
 - To record all complaints made against pathologists, and all decisions made in relation to such complaints by the Disciplinary Committee^(DS), Summary Hearing Panels^(DS), Disciplinary Tribunals^(DS) or Appeal Panels^(DS).
47. The Disciplinary Committee^(DS) shall consider all valid complaints alleging misconduct^(DS) or malpractice^(DS), other form of unfitness to practise^(DS) or reasons why a pathologist^(DS) is not fit to remain on the Register^(DS) received by the Delivery Board^(DS) in accordance with the provisions of these Rules.
48. In deciding whether to take action in a particular case the Disciplinary Committee^(DS) will have regard to (but not be limited to) the following factors.
- The gravity of the matter.
 - Whether more than one incident is involved.
 - The extent of the present risk to others or to the risk of prejudicing criminal investigations or proceedings.
 - Whether the pathologist^(DS) appears to have acted deliberately, recklessly, accidentally or in bad faith.
 - Whether the pathologist^(DS) may have neglected or disregarded his professional responsibilities.
 - Whether the Delivery Board^(DS) (or prior to its existence the Policy Board^(DS)) has received complaints that, taken together with the complaint (or complaints) under consideration, suggest a pattern that amounts to misconduct^(DS) or malpractice^(DS), or other reason to question registration.
 - Whether the pathologist^(DS) appears to have failed to comply with advice or guidance issued by the Delivery Board^(DS), the Policy Board^(DS), any of their committees or person or body acting on their behalf.
 - Whether there is evidence that a serious health problem may be affecting the pathologist's^(DS) behaviour or professional performance.
49. The Disciplinary Committee^(DS) has authority to remove a pathologist^(DS) from the Register^(DS) under the special procedures set out below relating to criminal convictions and non-co-operation.

COMPOSITION

50. The membership of the Disciplinary Committee^(DS) shall at least consist of:
- A lay member^(DS) as chairman;
 - Two senior and experienced forensic pathologists;
 - One additional legally qualified^(DS) lay member^(DS);
 - One member to represent the interests of coroners;

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- e. The Secretary of the Pathology Delivery Board ^(DS) to act as Secretary to the Committee.
51. Appointment to the Disciplinary Committee ^(DS) shall be in accordance with the Terms of Reference of the Committee set by the Delivery Board ^(DS). The Home Secretary reserves the right to appoint members of the Disciplinary Committee ^(DS) to serve for such period as he shall determine.
52. Any three members will constitute a quorum.
53. Where a quorate Disciplinary Committee ^(DS) meets in the absence of the Chairman the members present shall select a member to act as Chairman for the meeting.
54. In the event that the Chairman has to withdraw from the meeting he may ask any member to act as chairman for that part, or parts, of the meeting from which he is absent. Where the Chairman does not select a person to act as Chairman those members present may select a member to act as Chairman.
55. Where a meeting of the Disciplinary Committee ^(DS) is not quorate for the consideration of a particular complaint (perhaps because of the number of persons who withdrew due to issues of conflict) the Chairman has the following options.
- To postpone the consideration of the matter to the next meeting of the Disciplinary Committee ^(DS).
 - To continue consideration and make a preliminary recommendation on the matter. This recommendation shall be circulated to those members of the Disciplinary Committee ^(DS) who were not present at the meeting but would have been eligible to vote had they been at the meeting. The letter shall remind members of the provisions regarding withdrawal from consideration and set a deadline for response. The recommendation will not take effect unless the majority (taking account of the Chairman's casting vote) of those voting do so in favour of the recommendation within the specified time.
 - To appoint an independent assessor to act in place of the Disciplinary Committee ^(DS) to make the determination.
56. Which course of action to take is a matter at the discretion of the Chairman taking account the interest in having a fair and speedy process. The appointment of an independent assessor would normally be selected where the Chairman foresees difficulty in assembling a quorate Disciplinary Committee ^(DS) within a reasonable time.
57. In all cases the matter shall be considered to have been determined by the Disciplinary Committee ^(DS).
58. Any member or members of the Disciplinary Committee ^(DS) may be appointed by the Disciplinary Committee ^(DS) to perform preliminary investigative functions on behalf of the Disciplinary Committee ^(DS), provided that the substance of all information obtained thereby is reported to the Disciplinary Committee ^(DS).
59. The Secretary ^(DS) to the Delivery Board ^(DS) will act as Secretary ^(DS) to the Disciplinary Committee ^(DS). His involvement in a complaint by virtue of paragraphs 31 or 32 shall not prevent him from acting as a member.
60. The Disciplinary Committee ^(DS) may permit persons to attend its meetings as observers for training purposes etc. and may invite persons to attend in order to provide it with relevant information. Such persons may include members of the Home Office. Any such person may not participate in the determination of the Committee.
61. Any person who undertook investigations on behalf of the Disciplinary Committee ^(DS) may attend meetings to present results of their work but may not participate in any determination unless they are a member of the Disciplinary Committee ^(DS).
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INITIAL INVESTIGATION AND REVIEW**Initial Consideration**

62. Upon referral of the complaint a member, or members, of the Disciplinary Committee shall (subject to paragraph 63) be appointed under paragraph 58 to undertake the initial review. The appointment shall be made:
- By the Chairman of the Disciplinary Committee^(DS);
 - By the Secretary to the Disciplinary Committee^(DS); or
 - According to such procedures as may be determined by the Disciplinary Committee^(DS).
63. Where the Chairman of the Disciplinary Committee^(DS) or the Secretary to the Disciplinary Committee^(DS) is of the opinion that an initial investigation/review would not assist the Disciplinary Committee^(DS) in its assessment of the complaint or complaints he may order that no investigation/review take place and the matter be sent directly to the Disciplinary Committee^(DS).
64. If, for any reason, the person or persons appointed under paragraph 62 are (a) unable to undertake the initial consideration, (b) unable to undertake the initial consideration within a reasonable time or (c) no longer appear the appropriate person/persons to undertake the review their appointment may be cancelled, by the Chairman of the Disciplinary Committee^(DS) or by such means as shall be determined by the Disciplinary Committee^(DS), and new appointment or appointments made, by the Chairman of the Disciplinary Committee^(DS) or by such means as shall be determined by the Disciplinary Committee^(DS).
65. The member, or members, appointed to undertake the initial review shall commission such further investigations, enquiries or specialist reviews as appear to him or them to be appropriate at that stage for the purpose of enabling the Disciplinary Committee^(DS) to deal with the complaint. The member or members appointed under paragraph 62 may appoint a representative or representatives to carry out such investigations, enquiries or reviews.
66. The member or members appointed under paragraph 62 is/are responsible for undertaking an initial review of the complaint on the basis of the complaint, the pathologist's^(DS) response (if any) and such other information he or they considers appropriate (e.g. the product of investigations). He or they shall present the results of the consideration to the Disciplinary Committee^(DS) with such recommendations as he or they consider appropriate.
67. The Crown Prosecution Service is normally informed of the existence of a complaint at the point where the Disciplinary Committee^(DS) determine that (a) the complaint should be dismissed or no action taken upon it (see paragraph 71) or (b) where the Disciplinary Committee^(DS) determine that action should be taken (see paragraph 73). If at any point in the initial consideration it becomes clear that the matter under consideration raises serious issues for the Criminal Justice System the Chairman of the Disciplinary Committee^(DS) may authorise such disclosure to the Crown Prosecution Service as he considers appropriate.
68. If the person or persons appointed under paragraph 62 (a) believe that the initial consideration can not be completed within eight weeks of the reference of the complaint to the Disciplinary Committee^(DS) or (b) they do not complete the initial consideration within that period the Secretary^(DS) should inform the Crown Prosecution Service of the existence of the complaint. If possible the Secretary^(DS) should provide an indication of whether the complaint is likely to lead to action. This requirement for early notification only applies to complaints which could, if found proven, undermine the pathologist's^(DS) credibility as an expert witness.

Summary Dismissal

69. If it appears to the Disciplinary Committee^(DS), either before or after any further investigations or enquiries are made, that the complaint is obviously lacking in validity, is vexatious, relates to a matter that has already been dealt with or is trivial in nature, the Disciplinary Committee^(DS) may dismiss the complaint summarily, or determine that no action will be taken upon it.

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70. The Disciplinary Committee^(DS) may choose to take no action on a complaint if, in its opinion, there has been an excessive delay in bringing the complaint. As a guide complaints should normally be made within three years of the incident.
71. If the Disciplinary Committee^(DS) decides to dismiss the complaint summarily or decides that no action will be taken upon it, the Disciplinary Committee^(DS) shall inform the pathologist^(DS) concerned that the complaint has been summarily dismissed or that no action is to be taken upon it, as the case may be. The Disciplinary Committee^(DS) shall also inform the Crown Prosecution Service and the complainant that the complaint has been summarily dismissed or that no action is to be taken upon it.
72. When such a case is dismissed, the Secretary^(DS) will write to inform the complainant, and any others who have been informed of the existence of the complaint of that decision.

CONSIDERATION AND DETERMINATION

73. In any other case, the Disciplinary Committee^(DS) shall:
- a. Write to the pathologist^(DS) concerned, in such terms as the Disciplinary Committee^(DS) may from time to time specify, inviting him to comment in writing upon the complaint or complaints. If no response (or no response that appropriately explains the conduct) is received to the letter within 28 days of service (or such longer period as the Disciplinary Committee^(DS) may specify), the Disciplinary Committee^(DS) may proceed as if the pathologist's^(DS) response had been to deny the substance and the validity of the complaint in its entirety; and
 - b. Inform the Crown Prosecution Service of the existence of the complaint making clear that no decision has been made on whether it is justified.
74. On further consideration of the complaint, the Disciplinary Committee^(DS) may:
- a. Dismiss the complaint on the grounds set out in paragraph 69;
 - b. Determine that no action shall be taken on the complaint;
 - c. Postpone further consideration of the complaint pending further investigation or enquiry;
 - d. Delay pending the resolution of other proceedings; this will normally only be justified where the proceedings in question are criminal;
 - e. If a prima facie case of misconduct^(DS) or malpractice^(DS), any other form of unfitness to practise^(DS) or other reason to question the pathologist's^(DS) registration is not disclosed by the complaint, but the pathologist's^(DS) conduct is nevertheless such as to give cause for concern, the Disciplinary Committee^(DS) may act under the procedures set out in paragraph 87 below;
 - f. If a prima facie case of misconduct^(DS) or malpractice^(DS), other form of unfitness to practise^(DS) or other reason to question the pathologist's^(DS) registration is disclosed by the complaint, and in the opinion of the Disciplinary Committee^(DS) there are no disputes of fact which cannot fairly be resolved by the summary hearing procedure, and if the complaint, if proved or admitted before the Disciplinary Tribunal^(DS), would be unlikely to result in a sanction of being struck from the Register^(DS) or of suspension of registration, deal with the matter summarily in accordance with the Summary Hearing Rules^(DS). Reference to a Summary Hearing Panel^(DS) shall not be made if, although the subject of the immediate complaint (or complaints) would not warrant removal or suspension from the Register^(DS), it could, when considered in light of prior complaints and/or disciplinary action, justify such suspension or removal;
 - g. If a prima facie case of misconduct^(DS) or malpractice^(DS), other form of unfitness to practise^(DS) or other reason to question the pathologist's^(DS) registration is disclosed by the complaint in circumstances where, in the opinion of the Disciplinary Committee^(DS), either of the conditions in (f) do not apply, direct that the complaint shall form the subject matter of a charge or charges before a Disciplinary Tribunal^(DS);
 - h. If the pathologist^(DS) has been convicted of a criminal offence the Disciplinary Committee^(DS) may decide to act under the criminal convictions process set out below (at paragraph 102 et seq.); or
 - i. If the matter is one of purely medical competence and does not pertain to the Criminal Justice System or the fitness of the pathologist to remain on the Register^(DS), refer the complaint to the General Medical Council and/or the Royal College of Pathologists.

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75. Where the pathologist^(DS) is no longer on the Register^(DS) (having resigned or been removed from the Register^(DS) before the complaint or complaints in question was/were received) but the Delivery Board^(DS) still consider it appropriate to consider the complaint the matter shall:
- If the pathologist^(DS) agrees to participate in the process, proceed under the normal procedures. However, it will only proceed beyond consideration by the Disciplinary Committee^(DS) where the Disciplinary Committee^(DS) determine the matter should be referred to a Disciplinary Tribunal^(DS); or
 - If the pathologist^(DS) does not agree to participate in the process the matter shall proceed as if the pathologist^(DS) had resigned after the complaint had been received and thus under the Avoidance of Jurisdiction process. The wording of any entry in the Register^(DS) or any other records shall be modified to reflect the situation.
76. Where the Disciplinary Committee^(DS) determine the complaint should be dismissed or no action taken upon it they may still provide advice to the pathologist^(DS) in relation to the issues raised by the complaint under consideration.
77. The Disciplinary Committee^(DS) may, regardless of the decision with regard to the complaint under consideration, provide advice to the pathologist^(DS) with respect to any other part of his practice which, in the opinion of the Committee, could be improved.
78. Where the Disciplinary Committee^(DS) determine that further investigation is required it may appoint a person or, provided that the substance of all information obtained thereby is reported to the Committee, a member or members of the Committee to investigate, make enquiries or obtain such advice /assistance as is considered appropriate to assist the Disciplinary Committee^(DS) to make a determination.
79. Where the Disciplinary Committee^(DS) determines the complaint, or complaints, in question raise concerns but, on the basis of the information before it or relating to those complaints, is unable to come to a conclusion as to the appropriate course of action the investigation under paragraph 74 may extend to any work undertaken by the pathologist^(DS).
80. Where the Disciplinary Committee^(DS) decides to (a) suspend action against a pathologist or (b) refer a case to a Disciplinary Tribunal^(DS) or (c) as otherwise specified in these Rules, it may exercise its powers under the interim suspension procedure set out below.
81. The Disciplinary Committee^(DS) shall act upon a simple majority of those voting, the Chairman of the Disciplinary Committee^(DS) (or person acting as Chairman) having a casting vote in addition to his normal vote in the event of a tie.
82. In considering the complaint against the pathologist^(DS) the Disciplinary Committee^(DS) may conclude that there are issues raised by the complaint which go beyond the conduct of the pathologist^(DS). These may include, but not be limited to, such issues as:
- Areas where guidance should be provided to registered pathologists;
 - Areas where any guidance, disciplinary procedure or code should be modified; or
 - Technical problems which need to be addressed.
83. In cases where the Disciplinary Committee^(DS) conclude that there is an issue, or issues, such as discussed at paragraph 82 above it should prepare a report identifying the issues and, if so minded, its recommendations. This report should be provided to the Delivery Board^(DS) for their consideration. A report prepared under this section need not be provided to the pathologist^(DS).

Referral

84. If the Disciplinary Committee^(DS) decides that the complaint shall form the subject matter of a charge or charges before a Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), the Disciplinary Committee^(DS) shall:
- Inform the pathologist^(DS);
 - Inform the Designated Parties^(DS);

- c. Inform the Delivery Board^(DS) and seek to institute the process for convening a Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS);
 - d. Arrange for the appointment of a legal or other representative or representatives to formulate the charge or charges and to present the case before the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS). The representative shall formulate such charges as he considers appropriate, provided that such charges are founded upon the same incident, facts or evidence from which the complaint or complaints arose; and
 - e. Forward such charge or charges to the pathologist^(DS) and to the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), and make any necessary administrative arrangements for convening the hearing before the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) including making any necessary administrative arrangements for the summoning of witnesses, the production of documents, and generally for the proper presentation of the case on behalf of the Delivery Committee^(DS) before the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS).
85. Upon the decision by the Disciplinary Committee^(DS) that the complaint shall form the subject matter of charges before a Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), the Disciplinary Committee^(DS) shall (subject to paragraph 86) prepare and serve on the pathologist:
- a. Those document(s) setting out the charge or charges;
 - b. A statement of the facts upon which the charges are founded and upon which the Disciplinary Committee^(DS) intends to rely; and
 - c. Copies of any documents which are available to the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) and which have not previously been served on the pathologist^(DS).
86. The service of documents and statements on the pathologist^(DS) may be a continuing process, as documents become available.

Action where there is no prima facie case of misconduct or malpractice

87. These Rules provide for action where a complaint does not, on the face of it, suggest misconduct^(DS) or malpractice^(DS) but where there is cause for concern about the pathologist's^(DS) fitness to practise^(DS). Such situations might include, for example, evidence of:
- a. A health problem into which the pathologist^(DS) lacks insight but which is impairing his ability to do his work;
 - b. Behaviour which, while not misconduct^(DS) or malpractice^(DS) requiring disciplinary sanction, is undesirable in a registered forensic pathologist; or
 - c. Poor professional performance or a lack of competence in specific areas, which can be put right by straightforward remedial action.
88. In such circumstances the Disciplinary Committee^(DS) will:
- a. Write to the pathologist^(DS) with its advice on future conduct. This will be done where the facts of the case are clear and where the pathologist^(DS) admits the facts and accepts the reasons why they raise a question about his fitness to practise^(DS); or
 - b. Direct the pathologist^(DS) to attend upon the Chairman of the Delivery Board^(DS), or someone nominated by the Chairman, for an interview in which the matters disclosed by the complaint will be discussed and a course of action agreed between the interviewer and the pathologist. This will be done where further discussion is needed to establish the pathologist's degree of insight into the problem before a decision can be taken on an appropriate course of action.
89. Where the Disciplinary Committee^(DS) conclude the concerns raised about the pathologist^(DS) are such that it believe his presence on the Register^(DS) poses an unacceptable risk it may act under the interim suspension procedure. A suspension under these circumstances shall last until the Disciplinary Committee^(DS) is satisfied that its concerns have been addressed and the pathologist^(DS) no longer poses a serious risk.

Letters of advice

90. If the Disciplinary Committee^(DS) decides to send the pathologist^(DS) a letter of advice, the pathologist^(DS) will be required to confirm that he has received that advice and to undertake that he will follow it.

Interviews

91. If the Disciplinary Committee^(DS) directs an interview it may recommend the name of an appropriate interviewer to the Chairman of the Delivery Board^(DS).
92. If that person agrees to hold the interview, the Secretary^(DS) will notify the pathologist^(DS) and, unless there are exceptional reasons for delay, the interview will take place within 28 days of that notification. At its conclusion, the interviewer and interviewee will make a joint written record of the matters discussed, the action they have agreed to take, and the timescale for that action. A copy of the record of the interview will be sent to the Delivery Board^(DS).
93. If the person nominated by the Disciplinary Committee^(DS) (see paragraph 91) declines to take part in the interview process, is not available within the timescale of the process or the Disciplinary Committee^(DS) makes no recommendation the Chairman of the Delivery Board^(DS) has power to select an alternative or to refer the matter back to the Disciplinary Committee^(DS) for further consideration.
94. In the event that no agreement can be reached during the interview process the matter shall be referred back to the Disciplinary Committee^(DS) which shall have power to deal with the complaint as they see fit – routinely this will be by reference to a Summary Hearing Panel^(DS). If it appears to the Disciplinary Committee^(DS) that the failure to reach a conclusion is deliberate act of non-co-operation it may act under the failure to co-operate procedure.
95. Where the agreed action involves remedial training or mentoring, the interviewer, via the Delivery Board^(DS), should ensure (as far as reasonably practical) that such support is available, is likely to be effective, and provides for effective assessment of progress at its conclusion. If a programme of training specific to the pathologist's needs has to be designed, the Delivery Board^(DS) should approach relevant authorities including, where appropriate, the pathologist's employer^(DS) and a suitable training institution. The Delivery Board^(DS) will not fund the provision of such support. This will be a matter for the pathologist^(DS) and/or his employer^(DS).

Review

96. Towards the end of the timescale for action following the interview, the Board will seek confirmation from the pathologist^(DS), and from any others involved in that action, that they have adhered to the agreement reached with the interviewer, and that, where remedial training or mentoring has been arranged, that this has had the desired effect.
97. The Delivery Board^(DS) shall, if it is not content that the steps taken have effectively dealt with the cause for concerns refer the matter to the Disciplinary Committee^(DS). The Disciplinary Committee^(DS) shall be responsible for determining what steps shall be taken to ensure the pathologist^(DS) is no longer a cause for concern or more formal action taken.

Failure to Co-Operate

98. If at any stage of the disciplinary proceedings the pathologist^(DS) fails or refuses to co-operate with the Disciplinary Committee's^(DS) requirements, a Summary Hearing Panel^(DS), a Disciplinary Tribunal^(DS), an Appeal Panel^(DS) or any other person or body acting under the Disciplinary Procedures^(DS) the matter will be referred to the Disciplinary Committee^(DS) for consideration of what further action may be appropriate to secure the pathologist's^(DS) fitness to practise^(DS). In cases where the pathologist^(DS) fails to co-operate, the Disciplinary Committee^(DS) will remove him from the Register^(DS).
99. The Disciplinary Committee^(DS) may commission such investigation of any matter referred to it under this section as it consider appropriate to ensure it can make a proper determination of the issue. The Disciplinary Committee^(DS) may appoint any person or persons to undertake this investigation on its behalf.
100. If the pathologist^(DS) fails to comply with any advice provided or sanction imposed as part of a disciplinary process this shall be considered a failure to co-operate and shall be dealt with under this section. In this regard the advice or sanction may have resulted from action under these disciplinary procedures^(DS) or any earlier form of disciplinary action.

101. Removal from the Register^(DS) in these circumstances shall take effect immediately but otherwise shall be dealt with as if it were the imposition of a sanction of removal by a Disciplinary Tribunal^(DS) and shall be subject to appeal in like manner.

Criminal Convictions

102. Where the Disciplinary Committee^(DS) is considering a complaint against a pathologist^(DS) that arises from the conviction of the pathologist^(DS) in any criminal court, it shall have the power to remove the pathologist^(DS) from the Register^(DS) without referral to a Disciplinary Tribunal^(DS).
103. Where the Disciplinary Committee^(DS) considering a complaint arising from a criminal conviction decides not to act under this section it may deal with the complaint under the normal procedures.
104. Power to remove the pathologist^(DS) from the Register^(DS) directly shall only be employed when the conviction is such that it would undermine the pathologist's^(DS) credibility as an expert witness or undermine the integrity of the Register^(DS). Such offences include, but are not limited to, the following.
- a. Offences undermining the integrity of the justice system including:
 - i. Perjury; and
 - ii. Perverting the course of justice.
 - b. Offences involving dishonesty including:
 - i. Offences against the Theft Acts; and
 - ii. Offences against the Forgery Acts.
 - c. Offences that undermine the pathologist's^(DS) character including:
 - i. Offences against the Sexual Offences Acts;
 - ii. Offences involving violence; and
 - iii. Offences involving bribery or corruption.
 - d. Conviction for conspiracy, incitement or attempting to commit any of the above.
 - e. Convictions where a custodial sentence (even if suspended) has been imposed.
105. The power, set out in paragraph 102 above, to remove the pathologist^(DS) from the Register^(DS) directly will not be employed until any appeal against conviction and, where the removal would be on the basis of a custodial sentence, against sentence has concluded.
106. Where the power to remove is delayed pending an appeal (as set out in paragraph 105), the Disciplinary Committee^(DS) may exercise its power under the interim suspension procedure.
107. Removal from the Register^(DS) under these provisions shall take effect immediately but otherwise shall be dealt with as if it was a sanction imposed by a Disciplinary Tribunal^(DS) and shall be subject to notification by the Disciplinary Committee^(DS) and appeal in like manner.

AVOIDANCE OF JURISDICTION

108. As stated above these procedures only apply to those pathologists registered with the Home Office. It would therefore be possible for a pathologist to resign from the Register^(DS) to avoid a complaint being dealt with under these procedures.
109. Whilst such a resignation would, in part, meet the aims of the Register^(DS) it could allow a pathologist who was guilty of a serious error to continue to work with an apparently clean record. This is not in the interests of the Criminal Justice System.
110. To balance the needs of the Criminal Justice System with the need to be fair to all persons on the Register^(DS), the following procedure shall be adopted.

Resignation prior to Disciplinary Committee Determination

111. Where a pathologist^(DS) resigns from the Register^(DS) after he has been notified of a complaint, and before the Disciplinary Committee^(DS) has determined what shall be done, the Disciplinary Committee^(DS) shall deal with the complaint in the normal manner up to the point of substantive consideration – the point where decisions set out in paragraph 74 are made.

112. In cases where the Disciplinary Committee^(DS) would, had the pathologist^(DS) remained on the Register^(DS), not have decided to refer the matter to a Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), it shall determine that no comment shall be recorded on the Register^(DS), public record^(DS) or discipline record^(DS).
113. In cases where the Disciplinary Committee^(DS) would, had the pathologist^(DS) remained on the Register^(DS), have decided to refer the matter to a Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), it shall determine that the Register^(DS), the public record^(DS) and discipline record^(DS) reflect that the pathologist^(DS) resigned whilst subject to disciplinary action. In such cases the pathologist^(DS) will be prohibited from applying for registration in the future.

Resignation after Disciplinary Committee Determination

114. Where the pathologist^(DS) resigns from the Register^(DS) after the Disciplinary Committee^(DS) has decided to refer him to a Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) but before the proceedings before that body have concluded the Disciplinary Committee^(DS) shall determine that the Register^(DS), the public record^(DS) and discipline record^(DS) reflect that the pathologist^(DS) resigned whilst subject to disciplinary action. In such cases the pathologist^(DS) will be prohibited from applying for registration in the future.

INTERIM SUSPENSION

115. Where the Disciplinary Committee^(DS) (a) decides to refer a complaint to a Disciplinary Tribunal^(DS), (b) is considering direct removal under the provisions relating to criminal conviction and has suspended such action pending appeal or (c) as otherwise specified in the disciplinary procedures^(DS), it may act under this section.
116. In the circumstances set out in paragraph 115 above, the Disciplinary Committee^(DS) may recommend to the Chairman of the Delivery Board^(DS) that the pathologist^(DS) be suspended from the Register^(DS). Such a recommendation shall only be made where the Disciplinary Committee^(DS) believes the continued presence of the pathologist^(DS) on the Register^(DS) would pose a risk of prejudicing criminal investigations or proceedings or undermine the integrity of the Register^(DS).
117. On receipt of a recommendation for suspension, the Chairman of the Delivery Board^(DS) shall consider the recommendation and, if he considers the pathologist's^(DS) retention on the Register^(DS) a threat to the Criminal Justice System or the integrity of the Register^(DS), he shall suspend the pathologist's^(DS) registration.
118. If the Chairman of the Delivery Board^(DS) is considering suspending a pathologist^(DS), under this section, from the Register^(DS) he may write to the pathologist^(DS) offering him the opportunity to make representations. Should the pathologist^(DS) respond to such a letter, within the time specified by the Chairman of the Delivery Board^(DS), the Chairman shall consider such representations prior to making a decision.
119. If the Chairman of the Delivery Board^(DS) determines that the pathologist^(DS) should be suspended, he shall write to the pathologist^(DS) and Designated Parties^(DS) notifying them of the suspension.
120. Where the Delivery Board^(DS) notifies parties of an interim suspension it should make clear that:
- The suspension is an interim measure;
 - The suspension has been undertaken to protect the integrity of the Register^(DS) and does not indicate the pathologist^(DS) has failed to meet the high standards expected; and
 - The suspension will only last until the appropriate body has rendered a determination.
121. Subject to paragraph 122 any interim suspension under this section shall last only until the Disciplinary Tribunal^(DS) (or, in the case of criminal conviction or cause for concern, until the Disciplinary Committee^(DS)) has come to a determination of the case and, if they have imposed suspension or removal as a sanction, until such time as the period for serving a notice of intention to appeal has expired.

122. Where interim suspension was imposed before the determination of the Disciplinary Committee^(DS) or a Disciplinary Tribunal^(DS) and (a) the Disciplinary Tribunal^(DS) or Disciplinary Committee^(DS) imposes a sanction of suspension or removal and (b) a notice of intention to appeal is served the interim suspension shall extend until the determination of the appeal or to a date specified by the Appeal Panel^(DS).

ACTION ON COMPLETION OF SUMMARY HEARING PANEL OR DISCIPLINARY TRIBUNAL

123. Where a complaint has been referred to a Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), the final determination of that body shall be reported to the Chairman of the Disciplinary Committee^(DS).
124. Upon receipt of the report from the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS), the Disciplinary Committee^(DS) shall write to the pathologist^(DS) to notify him formally of the outcome. In particular the letter shall (to the extent appropriate in the case):
- Inform him of the finding;
 - Inform him of the sanction, if any, imposed;
 - Explain that failure to comply with the sanction, including advice or requirements in relation to later conduct, will lead to a removal from the Register^(DS);
 - In the case of a Disciplinary Tribunal^(DS), explain the right to appeal and provide the date by which an appeal must be lodged;
 - In the case of a Disciplinary Tribunal^(DS), explain that the sanction shall not be imposed until the date by which an appeal has to be lodged has passed or, if an appeal is lodged within that period, until that appeal has been determined;
 - Where a Disciplinary Tribunal^(DS) has imposed the sanction of removal explain whether the Chairman of the Delivery Board^(DS) has imposed suspension from the Register^(DS) pending Appeal; and
 - In cases where interim suspension was applied, before the determination of the Disciplinary Committee^(DS) or a Disciplinary Tribunal^(DS), the effect of the determination on the suspension.
125. The Disciplinary Committee^(DS) shall write to the complainant and Designated Parties^(DS) to inform them of the finding of the Summary Hearing Panel^(DS) or Disciplinary Tribunal^(DS) and the sanction imposed. The Disciplinary Committee^(DS) shall limit the information provided to that which is appropriate in the circumstances of the case.
126. The Disciplinary Committee^(DS) shall take such other steps as are, in its opinion, appropriate to implement the findings and sanction of the disciplinary process.

REMUNERATION

127. The legal or other representatives appointed under paragraph 84 above shall be paid a reasonable remuneration for the work done on the Disciplinary Committee's^(DS) behalf.

GENERAL PROVISIONS

128. The Secretary^(DS) will prepare formal minutes of all meetings of the Disciplinary Committee^(DS). The minutes will record the nature of the allegation in each case, the figures in any matters put to the vote and the decision of the Disciplinary Committee^(DS) as to the disposal of each case.
129. Any member of the Disciplinary Committee^(DS) must withdraw from consideration of a complaint where there is reason to believe his involvement would reasonably bring the impartiality of the body into question. Examples of circumstances which may prevent a person serving include, but are not limited to, the following.
- He has a vested interest in the outcome of the action.
 - He was involved, in any way, in a case that gave rise to the complaint.
 - He was, in any way, involved in making the complaint.
 - He investigated the complaint on behalf of the Disciplinary Committee^(DS) unless all relevant results of the investigation are presented to the Disciplinary Committee^(DS).

- e. He has a professional or personal relationship with persons that could reasonably lead to his impartiality being questioned.
 - f. He is subject to disciplinary action under the disciplinary procedures ^(DS).
 - g. He is involved with a review of the matter in any other arena e.g. General Medical Council hearing.
 - h. He has within the last five years sat on a Summary Hearing Panel ^(DS), Disciplinary Tribunal ^(DS) or Appeal Panel ^(DS) considering a complaint against the same pathologist ^(DS).
130. A member should also withdraw if he falls into any of the categories above in relation to a different complaint against the same pathologist ^(DS) that is, or is likely to come, under consideration by the Disciplinary Committee ^(DS).
131. The Home Secretary is responsible for all matters of policy related to the Register and its use within the Criminal Justice System. Therefore:
- a. The Home Secretary may make such representations to the Disciplinary Committee ^(DS) as he considers appropriate.
 - b. The Disciplinary Committee ^(DS) may, if it considers it appropriate, request representation from the Home Secretary.

PART C - SUMMARY HEARING PANEL RULES**POWERS AND FUNCTIONS**

132. Summary Hearing Panels ^(DS) are constituted by the Delivery Board ^(DS) to consider complaints where the Disciplinary Committee ^(DS) has determined that a summary hearing process is appropriate. The Chairman of the Delivery Board ^(DS) may appoint members of a Summary Hearing Panel ^(DS) on behalf of the Delivery Board ^(DS). The Home Secretary reserves the right to appoint members of any Summary Hearing Panel ^(DS).

COMPOSITION

133. A Summary Hearing Panel ^(DS) shall consist of:
- A legally qualified ^(DS) lay member ^(DS) as chairman;
 - At least one professional member ^(DS), chosen (as far as reasonably practical) with regard to the speciality of the respondent pathologist ^(DS); and
 - At least one additional lay member ^(DS).
134. The proceedings of a Summary Hearing Panel ^(DS) shall be valid notwithstanding that one or more of the members becomes unable to continue to act or disqualified from continuing to act, so long as the number of members present throughout the substantive hearing of the charge or charges is not reduced below three, one of whom is a lay member ^(DS).
135. The Secretary to the Disciplinary Committee ^(DS), who is the Secretary to the Delivery Board ^(DS), will also serve as Secretary to a Summary Hearing Panel ^(DS). His involvement in a complaint by virtue of paragraphs 31 or 32 shall not prevent him from acting in the role of secretary.

Chairman of the Summary Hearing Panel

136. The Chairman of the Summary Hearing Panel ^(DS) shall have responsibility for the management of the Summary Hearing Panel ^(DS). In particular he shall be responsible for:
- Ensuring the process is fair to all parties;
 - Ensuring the matter is dealt with expeditiously; and
 - Determining all issues of law and procedure.
137. Subject to the overriding principles set out in paragraph 8 the Chairman of the Summary Hearing Panel ^(DS) shall have the power to make such decisions as he believes are appropriate to manage the process and ensure a fair and expeditious hearing of the issues. Such decisions may include, but not be limited to:
- Determining the extent to which evidence will be heard at a hearing;
 - Determining the requirement, on all parties, to provide copies of evidence to other parties prior to the hearing; and
 - Determining what, if any, evidence will be presented to the panel and which will be dealt with in writing.

TIMETABLE

138. As soon as reasonably practical after referral of a case to the Summary Hearing Panel ^(DS), the Secretary ^(DS) shall write to the pathologist ^(DS) to stipulate a fixed time and date, normally on a working day within 60 days from the date of the letter, for the hearing to take place. One alternative shall be given.
139. The pathologist ^(DS) shall be invited to accept one or other of the dates proposed or to provide written representations to the Chairman of the Summary Hearing Panel ^(DS) objecting to both dates with reasons and providing two further alternative dates. The Chairman of the Summary Hearing Panel ^(DS) shall consider such representations, and either confirm one of the original dates or re-fix the hearing. His decision shall be final.
140. Once fixed, a hearing date shall be vacated only in exceptional circumstances and with the agreement of the Chairman of the Summary Hearing Panel ^(DS).

ACCEPTANCE OF STATEMENT OF FACTS AND OF SUMMARY HEARING PROCEDURE

141. The pathologist^(DS) shall be required to state in writing whether or not he admits the charge(s) and, if he does not, whether or not he challenges any of the facts detailed in the statement of facts. He shall also be asked to confirm his consent to the charge being dealt with by a Summary Hearing Panel^(DS).
142. If the pathologist^(DS) admits the charge(s) or does not challenge any significant facts and, in either case, if he consents to his case being dealt with by a Summary Hearing Panel^(DS), the case shall proceed to a summary hearing. If the pathologist does not consent, the complaint shall be referred to a Disciplinary Tribunal^(DS).
143. Failure of the pathologist^(DS) to respond to these questions within 28 days of service of the documents, or such longer period as specified by the Disciplinary Committee^(DS), shall be construed as refusal to admit the charge(s), to agree the statement of facts and to accept the summary hearing procedure. The matter shall then be referred to a Disciplinary Tribunal^(DS).

SUBMISSION OF FURTHER DOCUMENTS

144. If following agreement to the statement of facts and of documents relevant to the summary hearing procedure, the pathologist^(DS) seeks to submit further proofs of evidence, representations or other material for consideration at the summary hearing, he must do so not later than 21 days before the date fixed for the hearing.

REFERRAL TO DISCIPLINARY TRIBUNAL

145. If either before or at the summary hearing it becomes apparent that the material submitted or case presented by the pathologist^(DS) amounts to a denial of any significant fact in the statement of facts, the Chairman of the Summary Hearing Panel^(DS) shall refer the matter to the Disciplinary Committee^(DS) which shall determine whether the matter should be referred to a Disciplinary Tribunal^(DS).
146. If either before or at the summary hearing it becomes apparent that the material submitted by the pathologist^(DS) suggests that he is not fit to practise^(DS), the Chairman of the Summary Hearing Panel^(DS) shall refer the matter to the Disciplinary Committee^(DS). The Disciplinary Committee^(DS) shall determine whether the matter should be referred to a Disciplinary Tribunal^(DS).
147. Where the matter is referred to the Disciplinary Committee^(DS) under paragraphs 145 or 146 the Disciplinary Committee^(DS) may act under the interim suspension provisions.

PROCEDURE AT THE SUMMARY HEARING

148. Procedure at the summary hearing shall be informal, the details being at the discretion of the Chairman of the Summary Hearing Panel^(DS). In exercising that discretion, the Chairman will have regard to a number of considerations, including the need to:
- Observe the requirements of natural justice;
 - Pay due attention to human rights considerations, whether expressed in legislation or not;
 - Secure impartiality among the members of the panel and ensure that no member adjudicates who has not been present throughout the proceedings;
 - Hear witnesses if that would be essential to ensure that each side has a fair opportunity to present his case;
 - Preclude vexatious action by any party to the case; and
 - Admit any kind of evidence, including hearsay, which would enable the panel to reach an informed and fair decision.
149. The pathologist^(DS) is entitled to be represented by counsel or a solicitor or by any other representative he may wish.
150. The Summary Hearing Panel^(DS) shall have the power, at the discretion of its Chairman, to arrange for one, or more, specialist advisers to be present to advise on issues where the Summary Hearing Panel^(DS) lacks the necessary expertise. Such a situation might arise, for example, when the evidence suggests a pathologist^(DS) is suffering from a physical or mental condition that requires medical supervision or treatment, or where particular technical issues

require specialised scrutiny. Such advisers may attend all of the hearing, including any discussion the Summary Hearing Panel^(DS) may have in private, but may not vote or adjudicate on the case.

151. No witnesses may be called at a summary hearing without the consent of the Chairman of the Summary Hearing Panel^(DS) and without submission of a proof of evidence. In the event of leave being given to call a witness or witnesses, the Summary Hearing Panel^(DS) shall have the power to order the payment of reasonable expenses and/or fees of such witnesses by the Delivery Board^(DS). Under normal circumstances the costs associated with a witness should be met by the party instructing the witness.
152. The pathologist^(DS) shall attend the summary hearing. Should he fail to attend, and the Summary Hearing Panel^(DS) is satisfied that he has been duly notified of the hearing, the hearing may proceed in his absence. In this case, the Summary Hearing Panel^(DS) must be satisfied that this course is appropriate, that all relevant procedures have been complied with, and that no acceptable explanation for the pathologist's absence has been provided. Should the Summary Hearing Panel^(DS) not be so satisfied, it may adjourn the matter
153. If the Summary Hearing Panel^(DS) concludes the pathologist^(DS) deliberately failed to appear before it the panel may refer the matter to the Disciplinary Committee^(DS) as a case of non co-operation.
154. Where the Summary Hearing Panel^(DS) has to establish whether a fact is proved the standard of proof shall be the "balance of probabilities".

FINDING

155. At the conclusion of a summary hearing, the finding on each charge shall be set down in writing and signed by each member of the Summary Hearing Panel^(DS). If the members are not unanimous as to the finding on any charge, the finding to be recorded on the charge shall be that of the majority of those voting, the Chairman having a casting vote in addition to his ordinary vote in the event of a tie.
156. The Chairman of the Summary Hearing Panel^(DS) shall announce the Summary Hearing Panel's^(DS) finding on the charge or charges, and shall give the reasons for the decision either at the time that the finding is announced or within 28 days.
157. In considering the complaint against the pathologist^(DS) the Summary Hearing Panel^(DS) may conclude that there are issues raised by the complaint which go beyond the conduct of the pathologist^(DS). These may include, but not be limited to, such issues as:
- Areas where guidance should be provided to registered pathologists;
 - Areas where any guidance, disciplinary procedure or code should be modified; or
 - Technical problems which need to be addressed.
158. In cases where the Summary Hearing Panel^(DS) conclude that there is an issue, or issues, such as discussed in paragraph 157 above it should prepare a report identifying the issues and, if so minded, its recommendations. This report should be provided to the Disciplinary Committee^(DS) and the Delivery Board^(DS) for their consideration. A report prepared under this section need not be provided to the pathologist^(DS).

SANCTIONS

159. If the Summary Hearing Panel^(DS) finds the charge or any of the charges proved, evidence may be given of any previous finding recorded in the pathologist's^(DS) discipline record^(DS) or of any other matter or matters relevant to the imposition of any sanction.
160. Where the Summary Hearing Panel^(DS) has found more than one charge proved against the pathologist^(DS) it has the power to consider all of these together when determining the appropriate sanction.
161. After hearing any representations by or on behalf of the pathologist^(DS), the Summary Hearing Panel^(DS) shall set down in writing its decision as to the sanction. If the members of the

Summary Hearing Panel^(DS) are not unanimous as to the sanction, the sanction to be recorded shall be that decided by the majority of those voting, the Chairman having a casting vote in addition to his ordinary vote in the event of a tie. The Chairman of the Summary Hearing Panel^(DS) should then announce the Summary Hearing Panel's^(DS) decision.

162. The pathologist^(DS) against whom a charge has been proved may be:
- Ordered to repay or forgo fees;
 - Reprimanded by the Summary Hearing Panel^(DS);
 - Given advice by the Summary Hearing Panel^(DS) as to his future conduct;
 - Required to undergo training and/or assessment of competence. The Summary Hearing Panel^(DS) may specify the training to be undergone and the period within which it must be undertaken; or
 - Required to be supervised in the carrying on of his work for a specified period or until the Delivery Board^(DS) are satisfied that his work is of a satisfactory standard.
163. The Summary Hearing Panel^(DS) may impose more than one sanction in relation to a charge which has been proved.
164. In any case where a charge has been proved, the Summary Hearing Panel^(DS) may decide that no action should be taken against the pathologist.

REPORT

165. The Summary Hearing Panel^(DS) shall report its finding and sanction to the Chairman of the Disciplinary Committee^(DS) and the Chairman of the Delivery Board^(DS).

COSTS

166. A Summary Hearing Panel^(DS) has no power, except as set out in paragraph 151, to award costs and has no power to recommend payment of costs.

APPEAL

167. There shall be no appeal against a decision of the Summary Hearing Panel^(DS).

GENERAL PROVISIONS

168. The Secretary^(DS) will prepare formal minutes of all meetings of the Summary Hearing Panel^(DS). The minutes will record the nature of the allegation in each case, the figures in any matters put to the vote and the decision of the Summary Hearing Panel^(DS) as to the disposal of each case.
169. Meetings of the Summary Hearing Panel^(DS) where evidence is heard will be recorded verbatim.
170. The Home Secretary is responsible for all matters of policy related to the Register and its use within the Criminal Justice System. Therefore:
- The Home Secretary may make such representations to the Summary Hearing Panel^(DS) as he considers appropriate.
 - The Summary Hearing Panel^(DS) may, if it considers it appropriate, request representation from the Home Secretary.

PART D - DISCIPLINARY TRIBUNAL RULES**POWERS AND FUNCTIONS**

171. Disciplinary Tribunals^(DS) are constituted by the Delivery Board^(DS) to consider complaints where the Disciplinary Committee^(DS) has decided that the matter is sufficiently serious to warrant it. The Chairman of the Delivery Board^(DS) may appoint members of a Disciplinary Tribunal^(DS) on behalf of the Delivery Board^(DS). The Home Secretary reserves the right to appoint members of any Disciplinary Tribunal^(DS).
172. Disciplinary Tribunals^(DS) are not strictly adversarial in their consideration of charges brought before them. They also have an inquisitorial function. A Disciplinary Tribunal^(DS) therefore has the power to enquire into the matter under their consideration beyond the evidence adduced by the parties.
173. It is the duty of a Disciplinary Tribunal^(DS) to come to findings with respect to each particularised allegation in a charge on the basis of any evidence placed before the Disciplinary Tribunal^(DS) and, in the light of such findings, to make a determination on the question of whether the pathologist's^(DS) conduct (including malpractice^(DS) and misconduct^(DS)), and/or his professional performance, and/or the state of his (physical or mental) health bring into question whether he is fit to be on the Register^(DS). Where the pathologist's fitness to be on the Register^(DS) is brought into question, the threshold for the imposition of a sanction is attained. Where the threshold for the imposition of a sanction is attained, it is the duty of the Disciplinary Tribunal^(DS), in the light of any relevant mitigating factors, to take the action which it deems necessary in the interests of the public and, where not in conflict with the public interest, of the pathologist^(DS).

COMPOSITION

174. A Disciplinary Tribunal^(DS) shall, subject to paragraph 185 below, consist of not less than three persons nominated by the Chairman of the Delivery Board^(DS) and shall include:
- A legally qualified^(DS) lay member^(DS) as chairman;
 - At least one professional member^(DS), chosen, as far as reasonably practical, with regard to the speciality of the respondent pathologist^(DS) (if this is relevant to the matter under consideration); and
 - At least one additional lay member^(DS).
175. The Chairman of the Delivery Board^(DS) shall select another member of the relevant background to fill any vacancy in the Disciplinary Tribunal^(DS) membership that has arisen prior to the substantive hearing of the charge.
176. At any time before the commencement of the substantive hearing of the charge, the Chairman of the Delivery Board^(DS) may cancel any or all of the nominations made pursuant to paragraphs 174 or 175 and make such alternative nominations as in the exercise of his discretion he thinks fit.
177. If, after the beginning of the substantive hearing, members withdraw from the Disciplinary Tribunal^(DS) the composition shall not be altered unless it becomes inquorate. If this occurs the Chairman of the Delivery Board^(DS) may nominate replacement members and the substantive hearing shall be started afresh.
178. The proceedings of the Disciplinary Tribunal^(DS) shall be valid notwithstanding that one or more of the members other than the Chairman withdraws, so long as the Disciplinary Tribunal^(DS) does not become inquorate and at least one lay member^(DS) is present.
179. A member of the Disciplinary Tribunal^(DS) who has been absent for any period during the substantive hearing shall take no further part in the proceedings. They may however take part if the substantive hearing of the matter is re-started.

Chairman of the Disciplinary Tribunal

180. The Chairman of the Disciplinary Tribunal ^(DS) shall have responsibility for the management of the Disciplinary Tribunal ^(DS). In particular he shall be responsible for:
- Ensuring the process is fair to all parties;
 - Ensuring the matter is dealt with expeditiously; and
 - Determining all issues of law and procedure.
181. Subject to the overriding principles set out in paragraph 8 the Chairman of the Disciplinary Tribunal ^(DS) shall have the power to make such decisions as he believes are appropriate to manage the process and ensure a fair and expeditious hearing of the issues. He also has the power to make such decisions as are necessary to ensure the matter before the Disciplinary Tribunal ^(DS) is properly investigated and the tribunal reaches a fully informed determination of the facts. Such decisions may include, but not be limited to:
- Determining the extent to which evidence will be heard at a hearing;
 - The setting of dates and periods for any hearing;
 - Setting dates by which any part of the disciplinary process may be completed;
 - Determining the requirement, on all parties, to provide copies of evidence to other parties prior to the hearing;
 - Determining what, if any, evidence will be presented to the tribunal and which will be dealt with in writing;
 - Commissioning further investigation of the matter;
 - Requiring such additional information as he considers necessary; and
 - Asking questions he believes relevant of any witnesses.

Clerk to the Disciplinary Tribunal

182. The Chairman of the Delivery Board ^(DS) shall appoint a person, or organisation, to act as clerk to the Disciplinary Tribunal ^(DS) to perform the functions specified in these Rules and such other functions as the Chairman of the Delivery Board ^(DS) or the Chairman of the Disciplinary Tribunal ^(DS) may direct.
183. The Chairman of the Delivery Board ^(DS) may also appoint one, or more persons, to act as deputy to the Clerk and to undertake such duties of the Clerk as the Chairman of the Disciplinary Tribunal ^(DS), Chairman of the Delivery Board ^(DS) or Clerk shall deem appropriate.
184. The Chairman of the Delivery Board ^(DS) may, at any point during the proceedings, cancel his appointment of Clerk and/or any Deputy Clerk and make such appointments as he sees fit.

Special Disciplinary Tribunal Composition

185. The Chairman of the Delivery Board ^(DS) may constitute a Disciplinary Tribunal ^(DS) containing no professional members ^(DS) if satisfied that:
- It is not reasonably practical to form a sufficiently impartial Disciplinary Tribunal ^(DS) complying with the composition set out in paragraph 174; or
 - That the pathologist ^(DS), or his representatives, may be seeking to frustrate the activities of the Disciplinary Tribunal ^(DS) by challenging professional members ^(DS); or
 - It is necessary to ensure a fair hearing and protect the public interest and/or the integrity of the Register ^(DS).

SERVICE OF CHARGES

186. Following the formulation of the charge or charges, they shall be served on the Clerk to the Disciplinary Tribunal ^(DS) and the pathologist ^(DS).

Amendment of charges

187. The Disciplinary Tribunal ^(DS) may at any time before or during the hearing direct that the charge or charges shall be amended provided that:
- The Disciplinary Tribunal ^(DS) is satisfied that the pathologist ^(DS) will not suffer substantial prejudice in the conduct of his defence;
 - The Disciplinary Tribunal ^(DS) shall, if so requested by the pathologist ^(DS), adjourn for such time as is reasonably necessary to enable him to meet the charge or charges so amended; and
 - The Disciplinary Tribunal ^(DS) shall make such order as to the costs of or occasioned by the amendment as it considers appropriate.

CONVENING ORDERS

188. After receipt of the charge or charges served under paragraph 186, and in any case not less than 28 days before the substantive hearing, the Chairman of the Delivery Board^(DS) shall issue an order (the Convening Order) specifying:
- The date, time and place of the sitting of the Disciplinary Tribunal^(DS) at which it is proposed that the charge or charges should be heard;
 - The identities of those persons it is proposed should constitute the Disciplinary Tribunal^(DS) to hear the case; and
 - The identity of the Clerk.
189. The Chairman of the Delivery Board^(DS) may alter the date, time and place set out in the Convening Order. Such alteration shall be notified to the pathologist^(DS). Any alteration of the date shall not provide less than 28 days notice as specified in paragraph 188. An alteration of the time or place shall not, unless the parties agree, provide less than 48 hours notice.
190. The Chairman of the Delivery Board^(DS) shall arrange for the service of the Convening Order on the pathologist^(DS), and for copies thereof to be supplied to the members of the Disciplinary Tribunal^(DS) and the Clerk. In the Convening Order the pathologist's^(DS) attention should be drawn to:
- His right to be represented by counsel or solicitor, or any other representative he may choose;
 - His right to inspect and be given copies of documents referred to in the list served under paragraph 85;
 - His right (without prejudice to his right to hear and take part in the proceedings) to deliver a written answer to the charge or charges if he thinks fit; and
 - His right, within a time specified in the order, to object to the membership of the Disciplinary Tribunal^(DS).
191. The pathologist^(DS) shall have the right, as set out in 190.d above, upon receipt of the Convening Order to give notice to the Chairman of the Delivery Board^(DS) objecting to any one or more of the proposed members of the Disciplinary Tribunal^(DS). The notice must be served within the period specified in the Convening Order and must specify the ground of objection. If satisfied that there are valid grounds of objection, the Chairman of the Delivery Board^(DS) may remove one or more of the proposed members of the Disciplinary Tribunal^(DS) and replace such members under paragraph 176 above.
192. Where the Chairman of the Delivery Board^(DS) exercises his right to alter the composition of the Disciplinary Tribunal^(DS) the pathologist^(DS) shall have the right, by like process to that set out in paragraph 191, to object to any newly appointed member of the Disciplinary Tribunal^(DS).

PRELIMINARY HEARINGS

193. Before the sitting of the Disciplinary Tribunal^(DS) at which the charge or charges are to be heard, the Chairman of the Disciplinary Tribunal^(DS) may hold one, or more, preliminary hearings for the purpose of giving directions and of taking such other steps as he considers necessary for the clarification of the issues before the Disciplinary Tribunal^(DS), and generally for the just and expeditious handling of the proceedings.
194. The directions to be given and steps to be taken by the Chairman of the Disciplinary Tribunal^(DS) may concern, but shall not be limited to, the following matters.
- Stay of proceedings on grounds of abuse of process.
 - Applications for separate hearings or applications for cases.
 - Applications for hearings or applications to be joined.
 - Applications to sever charges.
 - Attendance of witnesses.
 - A requirement that the parties provide each other with the names of all witnesses to be called at the hearing within a specified time limit.
 - Admission of documents.

- h. Admission of facts.
 - i. Whether the hearing should be heard in public or in private.
195. The Chairman of the Disciplinary Tribunal ^(DS) may, if he thinks fit, request the pathologist ^(DS) or his representative to state (either forthwith or in writing within a specified time limit) whether any and if so which of the facts relied on in support of the charge or charges as may be specified is in dispute, or the ground on which such fact is disputed.
196. The Clerk shall, subject to paragraph 234, take a note of the proceedings at a preliminary hearing and shall draw up a record to be served on the parties setting out the directions given or admissions made.
197. The Chairman of the Disciplinary Tribunal ^(DS) may, at his discretion, decide that any preliminary hearing will be heard before him alone. Where a preliminary hearing is heard before the Chairman alone it shall have the same powers as if the whole Disciplinary Tribunal ^(DS) were present.
198. Preliminary hearings are undertaken in preparation for the substantive hearing of the charge, or charges, and are not part of the substantive hearing. Consequently, the fact that a member of the Disciplinary Tribunal ^(DS) does not participate in a preliminary hearing does not prevent them participating in the substantive hearing. Similarly, the fact that membership of the Disciplinary Tribunal ^(DS) alters between a preliminary hearing and the substantive hearing does not invalidate decisions taken at the preliminary hearing nor does it prevent the differently constituted panel hearing the substantive case.
199. Preliminary hearings of the Disciplinary Tribunal ^(DS) shall be held in private.

PROCEDURE AT THE HEARING

200. The proceedings of the Disciplinary Tribunal ^(DS) shall be governed by the rules of natural justice subject to which the Disciplinary Tribunal ^(DS) may:
- a. Admit any evidence, whether oral or written, whether direct or hearsay, and whether or not the same would be admissible in a court of law;
 - b. Give such directions with regard to the conduct of and procedure at the hearing, and with regard to the admission of evidence, as it considers appropriate for ensuring that the pathologist ^(DS) has a proper opportunity of answering the charge and the matter is dealt with expeditiously;
 - c. Proceed in the absence of the pathologist ^(DS) if satisfied that he has been duly notified of the charge or charges and of the hearing.
201. Where the Disciplinary Tribunal ^(DS) has to establish whether a fact is proved, the standard of proof shall be the “balance of probabilities”.
202. Except as provided for in the Disciplinary Rules ^(DS) and, if issued, any Disciplinary Tribunal ^(DS) the burden of proof shall rest on the representatives of the Disciplinary Committee ^(DS) .
203. The Disciplinary Tribunal ^(DS) shall have the power, at the discretion of its Chairman, to arrange for one, or more, specialist advisers to be present to advise on issues where the Disciplinary Tribunal ^(DS) lacks the necessary expertise. Such a situation might arise, for example, when the evidence suggests a pathologist is suffering from a physical or mental condition that requires medical supervision or treatment, or where particular technical issues require specialised scrutiny. Such advisers may attend all of the hearing, including any discussion the Disciplinary Tribunal ^(DS) may have in private, but may not vote or adjudicate on the case.

Hearing in private or in public

204. The hearing or part of a hearing (other than preliminary hearings) before the Disciplinary Tribunal ^(DS) shall be in public unless the Chairman of the Disciplinary Tribunal ^(DS) decides otherwise. He shall normally only do so if:
- a. The pathologist ^(DS) has made an application that the hearing or part of the hearing shall be in private and the public interest does not otherwise require;

- b. It is necessary to protect the privacy of those involved in cases under consideration; or
- c. The interests of the Criminal Justice System require that the hearing be held in private.

Adjournment

205. Subject to the provisions of the following paragraph, or as otherwise directed by its Chairman, a Disciplinary Tribunal ^(DS) shall sit from day to day (Saturdays, Sundays, and Bank Holidays excepted) until it has arrived at a finding and, if any charge has been found proved, until the appropriate sanction is determined.
206. Notwithstanding the provisions of paragraph 205, a Disciplinary Tribunal ^(DS) may, if it decides that an adjournment is appropriate for any reason, adjourn the hearing for such period as it may decide.

THE FINDING

207. The finding of the Disciplinary Tribunal ^(DS) on each charge shall be set down in writing and signed by the Chairman of the Disciplinary Tribunal ^(DS) and all members of the Disciplinary Tribunal ^(DS). This may be done at the conclusion of the hearing or, if the Disciplinary Tribunal ^(DS) wish to reserve judgment, at some later date. If the members are not unanimous as to the finding on any charge, the finding to be recorded on the charge shall be that of the majority of those voting, the Chairman having a casting vote in addition to his ordinary vote in the event of a tie
208. Regardless of its finding in relation to any alleged fact or charge brought before the Disciplinary Tribunal ^(DS) it may make a finding that the pathologist ^(DS) is not fit to practise ^(DS).
209. In considering the complaint against the pathologist ^(DS) the Disciplinary Tribunal ^(DS) may conclude that there are issues raised by the complaint which go beyond the conduct of the pathologist ^(DS). These may include, but not be limited to, such issues as:
- a. Areas where guidance should be provided to registered pathologists;
 - b. Areas where any guidance, disciplinary procedure or code should be modified; or
 - c. Technical problems which need to be addressed.
210. In cases where the Disciplinary Tribunal ^(DS) conclude that there is an issue, or issues, such as discussed at paragraph 209 above it should prepare a report identifying the issues and, if so minded, its recommendations. This report should be provided to the Disciplinary Committee ^(DS) and the Delivery Board ^(DS) for their consideration. A report prepared under this section need not be provided to the pathologist ^(DS).

THE SANCTIONS

211. If the Disciplinary Tribunal ^(DS) finds the charge or any of the charges proved, or determine the pathologist ^(DS) is not fit to practise ^(DS), evidence may be given on any previous finding recorded on the pathologist's ^(DS) discipline record ^(DS), or of any other matter or matters relevant to the imposition of any sanction.
212. Where the Disciplinary Tribunal ^(DS) has found more than one charge proved against the pathologist ^(DS) it has the power to consider all of these together when determining the appropriate sanction.
213. After hearing any representations by or on behalf of the pathologist ^(DS), the Disciplinary Tribunal ^(DS) shall set down in writing its decision as to the sanction. If the members of the Disciplinary Tribunal ^(DS) are not unanimous as to the sanction, the sanction to be recorded shall be that decided by the majority of those voting, the Chairman having a casting vote in addition to his ordinary vote in the event of a tie. The Chairman of the Disciplinary Tribunal ^(DS) shall, either at the conclusion of the hearing or later in writing, deliver the Disciplinary Tribunal's ^(DS) decision and shall give the reasons for the decision.
214. The pathologist ^(DS) against whom a charge has been found to be proved, or otherwise determined not fit to practise ^(DS), may be:
- a. Struck from the Register ^(DS);

- b. Suspended from the Register^(DS) for a prescribed period, until such conditions as the Disciplinary Tribunal^(DS) think fit are met or a combination of these;
 - c. Ordered to repay or forgo fees;
 - d. Reprimanded by the Disciplinary Tribunal^(DS);
 - e. Given advice by the Disciplinary Tribunal^(DS) as to his future conduct;
 - f. Required to undergo training and/or assessment of competence. The Disciplinary Tribunal^(DS) may specify the training to be undergone and the period within which it must be undertaken; or
 - g. Required to be supervised in the carrying on of his work for a specified period or until the Delivery Board^(DS) are satisfied that his work is of a satisfactory standard.
215. All sanctions listed in paragraph 214 are available to a Disciplinary Tribunal^(DS) in all cases. This is true even where the Disciplinary Committee^(DS) initially referred the complaint to a Summary Hearing Panel^(DS).
216. Where the Disciplinary Tribunal^(DS) imposes the sanction of removal from the Register^(DS) this sanction shall require the pathologist's^(DS) removal from the Register^(DS) and permanent prohibition from re-applying for registration.
217. Where the Disciplinary Tribunal^(DS) imposes the sanction of suspension they will either specify the suspension shall end on a particular date or, more normally, set requirements necessary for the suspension to be ended and specify the date by which the suspension must end. Where the date for the ending of suspension is reached and requirements set have not been met the suspension shall alter to a removal from the Register^(DS) or, where the suspension was restricted, to a restriction on the registration or removal – depending on the decision of the Disciplinary Tribunal^(DS) on the effect on not meeting the requirement.
218. In the event that there is any question as to whether the Disciplinary Tribunal^(DS) intended the result of not meeting the conditions attached to the suspension to be restriction or removal it shall be presumed, unless the pathologist^(DS) can prove otherwise, that the result will be removal from the Register^(DS).
219. Where the Disciplinary Tribunal^(DS) imposes the sanction of suspension the date for the ending of the suspension, set under paragraph 217, may be determined by reference to the start of the suspension. This ensures any delay to the start of the suspension, e.g. by appeal, does not alter the period of suspension.
220. Where a pathologist^(DS) (a) has his registration restricted or (b) is removed from the Register^(DS) under the provisions of paragraph 217 this restriction or removal shall not necessarily be permanent. The pathologist^(DS) may apply to the Registration and Training Committee^(DS) for (a) the restriction to be removed or (b) to register. The Registration and Training Committee^(DS) will only approve such an application if (a) they are certain the pathologist^(DS) can meet the standard required, (b) the Disciplinary Committee^(DS) consent and (c) a period of 12 months has elapsed from the date upon which the suspension was scheduled to end.
221. Where the complaint had been dealt with pursuant to the provisions of paragraph 75 and had been referred to a Disciplinary Tribunal^(DS) the tribunal may only record the sanction it would have imposed had the pathologist^(DS) been on the Register^(DS). If the sanction of reprimand, suspension or removal would have been imposed the pathologist^(DS) shall be prohibited from applying for registration.
222. The Disciplinary Tribunal^(DS) may impose more than one sanction in relation to a charge found to have been proved.
223. In any case where a charge has been found proved, the Disciplinary Tribunal^(DS) may determine that no action should be taken against the pathologist^(DS).
224. The Disciplinary Tribunal^(DS) may, regardless of the finding in relation to charges brought before it, conclude that the evidence before them raises issues that reflect on the pathologist's

^(DS) registration to act as a medical practitioner. In such cases the Disciplinary Tribunal ^(DS) may refer the matter, and any appropriate evidence, to the General Medical Council.

225. No sanction determined by the Disciplinary Tribunal ^(DS) shall be implemented:
- Until the period for notification of intention to appeal has expired and no notice has been received; or
 - Where notice of intent to appeal is received the sanction shall not be implemented until either the notice is revoked, the determination upheld or a modified sanction imposed.
226. Where a Disciplinary Tribunal ^(DS) imposes a sanction of removal from the Register ^(DS) the pathologist ^(DS) shall be suspended from the Register ^(DS) until the period for lodging an appeal has expired and no appeal lodged or, where an appeal is lodged, pending the outcome of the appeal.

REPORT

227. The Disciplinary Tribunal ^(DS) shall report its finding and sanction to the Chairman of the Disciplinary Committee ^(DS) and the Chairman of the Delivery Board ^(DS).

COSTS

228. Costs associated with witnesses shall normally be met by the party instructing them. The Disciplinary Tribunal ^(DS) shall have the power to order the payment, by the Delivery Board ^(DS), of reasonable expenses and/or fees of witnesses who give evidence, whether oral or written if it believes it is necessary to do so to ensure a fair hearing of the matter.
229. Save as provided for in paragraphs 187.c and 228, a Disciplinary Tribunal ^(DS) shall have no power to award costs.
230. Where the conditions set out below are met, the Disciplinary Tribunal ^(DS) shall have the power to recommend to the Home Secretary that an ex-gratia payment be made to the pathologist ^(DS) to assist with reasonable legal costs associated with the Disciplinary Tribunal ^(DS). The conditions applying to this paragraph are:
- No charge shall have been found proved against the pathologist ^(DS);
 - No determination that the pathologist ^(DS) is not fit to practise ^(DS) shall have been made; and
 - The Disciplinary Tribunal ^(DS) shall be satisfied that the proceedings were not caused, or prolonged, by any act or omission of the pathologist ^(DS) or his representatives.

APPEAL

231. The finding and sanction determined by a Disciplinary Tribunal ^(DS) may be subject to appeal as set out in the Appeal Rules ^(DS).

GENERAL PROVISIONS

Recording of proceedings

232. The Clerk to the Disciplinary Tribunal ^(DS) will prepare formal minutes of all of its meetings. The minutes will record the nature of the allegation in each case, the figures in any matters put to the vote and the decision of the Disciplinary Tribunal ^(DS).
233. Meetings of the Disciplinary Tribunal ^(DS) where evidence is heard will be recorded verbatim.
234. The Chairman of the Disciplinary Tribunal ^(DS) has the power to order that the records prepared of the meetings of the Disciplinary Tribunal ^(DS) (including preliminary hearings) which are to be made available to tribunal members and parties shall be edited to ensure that any material which he has directed shall not be available to (a) other members of the panel or (b) the parties, is not published. Such an order shall have force until (a) the Chairman of the Disciplinary Tribunal ^(DS) alters his order; (b) the Disciplinary Tribunal ^(DS) has finished its consideration of the case or (c) indefinitely if the Chairman so orders.
235. Where the Chairman of the Disciplinary Tribunal exercises his authority under paragraph 234 to edit the records of meetings, unedited versions of the records shall also be prepared.

Unedited versions shall be held by the Clerk and provided to the Chairman and the Home Office.

236. The Home Secretary is responsible for all matters of policy related to the Register and its use within the Criminal Justice System. Therefore:
- a. The Home Secretary may make such representations to the Disciplinary Tribunal^(DS) as he considers appropriate.
 - b. The Disciplinary Tribunal^(DS) may, if it considers it appropriate, request representation from the Home Secretary.

PART E -APPEAL

237. A pathologist^(DS) may appeal against the ruling of the Disciplinary Tribunal^(DS) (or of the Disciplinary Committee^(DS) where these Rules state that the determination is to be treated as a decision made by, or sanction imposed by, the Disciplinary Tribunal^(DS)) on one or more of the following grounds.
- That the disciplinary process was unfair to the pathologist^(DS).
 - That the Disciplinary Tribunal's^(DS) findings of fact were in error.
 - That the Disciplinary Tribunal's^(DS) conclusion as to the pathologist's^(DS) conduct (including malpractice^(DS) and misconduct^(DS)), or his professional performance, or the state of his (physical and mental) health, or his fitness to practise^(DS) was in error.
 - That the sanction imposed by the Disciplinary Tribunal^(DS) was excessive.
238. The Disciplinary Committee^(DS) may appeal against the ruling of the Disciplinary Tribunal^(DS) on the ground that the sanction imposed by the Disciplinary Tribunal^(DS) was too lenient.
239. Any notification of intention to appeal must be made to the Chairman of the Delivery Board^(DS) within 28 days of the determination of the Disciplinary Tribunal^(DS) or Disciplinary Committee^(DS) as appropriate. Where the Disciplinary Tribunal^(DS) deliver its decision with regard to sanction at a date after the finding in relation to facts and charges the notification must be made within 28 days of the decision on sanctions.
240. Within 60 days of the notification to the Chairman of the Delivery Board^(DS) of an intention to appeal, the Chairman of the Pathology Council^(DS) shall appoint an Appeal Panel^(DS). This shall, subject to paragraph 241, consist of at least three persons selected from the Pathology Council^(DS). Where the Chairman of the Pathology Council^(DS) is also Chairman of the Delivery Board^(DS) and his selection of the Appeal Panel^(DS) would raise questions as to its impartiality the selection shall be made, or confirmed, by the Home Office Legal Adviser or his nominee.
241. If the Chairman of the Pathology Council^(DS) believes it would not be possible, or possible within a reasonable time, to establish an Appeal Panel^(DS) composed of three members of the Pathology Council^(DS) which could ensure a fair hearing of the appeal, or which would not ensure appropriate knowledge or experience were reflected, he may include, or entirely compose the panel of, persons who are not members of the Pathology Council^(DS).
242. Where none of the members selected are legally qualified^(DS) the Chairman of the Pathology Council^(DS) may appoint a legally qualified adviser to assist the Appeal Panel^(DS), but not to participate in the determination of the charges.
243. At any time before the commencement of the substantive hearing of the appeal, the Chairman of the Pathology Council^(DS) may cancel any or all of the nominations made pursuant to paragraph 240 to 242 and make such alternative nominations as in the exercise of his discretion he thinks fit. Where the appointment was made, or confirmed, by the Home Office Legal Adviser or his nominee any replacement shall be subject to similar approval.
244. The review by the Appeal Panel^(DS) will be limited in its scope to consideration of the specific complaints made to the Appeal Panel^(DS).
245. The Chairman of the Pathology Council^(DS) shall set down the procedure to be followed for the appeal.
246. The Home Secretary is responsible for all matters of policy related to the Register and its use within the Criminal Justice System. Therefore:
- The Home Secretary may make such representations to the Appeal Panel^(DS) as he considers appropriate.
 - The Appeal Panel^(DS) may, if it considers it appropriate, request representation from the Home Secretary.
247. The Appeal Panel^(DS) shall have the power to reverse any determination made, or sanction imposed, by the Disciplinary Tribunal^(DS) (or to be treated as a decision or sanction from a

Disciplinary Tribunal^(DS) and impose the determination and /or sanction that it believes appropriate. Regardless of the finding in respect of any appeal the Appeal Panel^(DS) has the right to decline to intervene.

PART F - THE SECRETARY OF STATE

248. The Register^(DS) is the Home Secretary's personal recommendation of a pathologist. The Home Secretary therefore determines, in his absolute discretion, who shall be placed, or remain, on the Register^(DS).
249. It is therefore essential that all pathologists on the Register^(DS) maintain the confidence of the Home Secretary.
250. The Home Secretary (at his own instance or at the recommendation of the Chairman of the Delivery Board^(DS)) may suspend or remove a pathologist from the Register^(DS) if he believes it is appropriate to do so to protect the integrity of the Register^(DS) or the Criminal Justice System.
251. The Chairman of the Delivery Board^(DS), acting on behalf of the Home Secretary, may (at his own instance or on the recommendation of the Disciplinary Committee^(DS) or the Delivery Board^(DS)) suspend a pathologist from the Register^(DS). The period of suspension shall be that deemed appropriate by the Chairman.
252. The Home Secretary has established the Pathology Council^(DS) and the Delivery Board^(DS) to act on his behalf in this area. Under normal circumstances the Home Secretary acts through these bodies and on the advice of these bodies and of officials within the Home Office.
253. Where the Pathology Council^(DS), Delivery Board^(DS) or related committees can not offer advice under normal circumstances to the Home Secretary, he shall act directly.
254. In relation to complaints this situation may arise when the following conditions arise:
- The Delivery Board^(DS), acting under the disciplinary procedures^(DS) can not, or can not within a period considered reasonable by the Home Secretary, reach a determination on a complaint;
 - The Pathology Council^(DS), acting under the disciplinary procedures^(DS) can not, or can not within a period considered reasonable by the Home Secretary, reach a determination on an appeal; or
 - The Delivery Board^(DS) and/or Pathology Council^(DS) have made a determination and that decision is later successfully challenged in any court.
255. Where any of the conditions set out in paragraph 254 are satisfied or in any other circumstances where a complaint can not be determined (or can not be determined within a period considered reasonable by the Home Secretary) according to the disciplinary procedures^(DS), the Home Secretary shall determine whether he is content to continue to recommend the pathologist^(DS). In making this determination the Home Secretary may consider such information as he considers relevant including, but not limited to, the following.
- The complaint against the pathologist^(DS).
 - The pathologist's^(DS) response, if any, to the complaint.
 - The conduct of the pathologist^(DS) (and his representatives) in responding to the complaint.
 - The discipline record^(DS) of the pathologist^(DS).
 - Whether the pathologist^(DS) would, due to the complaint and related circumstances, have difficulty acting as an expert witness.
256. In making a decision as to whether he is content to continue to recommend the pathologist^(DS) the Home Secretary is not making a determination of whether the complaint against the pathologist^(DS) is justified. He is making a determination of whether, on the available information, he is content to continue to recommend the pathologist^(DS).
257. In making such a decision the Home Secretary shall have due regard to the following considerations:
- The importance of his recommendation;
 - The impact on the Criminal Justice System of his recommendation; and
 - The interests of the Criminal Justice System.

258. Where the Home Secretary is not satisfied that it is in the interests of the Criminal Justice System and/or the public interest for him to continue to recommend the pathologist^(DS) he shall determine that the pathologist^(DS) be removed from the Register^(DS).
259. Where the pathologist^(DS) is removed from the Register^(DS) under this section he shall be prohibited from applying for registration and may only be re-admitted to the Register^(DS) on the approval of the Home Secretary.
260. There is no appeal from the determination of the Home Secretary under this section.

PART G – GENERAL ISSUES

261. As regards correspondence with the pathologist^(DS), proof of delivery by recorded post (or other similar method) shall be conclusive proof of notification, service etc. The address used shall be that given on the Register^(DS), unless the pathologist^(DS) notifies the Disciplinary Committee^(DS) that a different address should be used. In cases where the pathologist^(DS) has nominated someone to represent them, the pathologist may nominate this person to receive all letters and enclosures in connection with his case.
262. Where a party agrees to the use of electronic forms of delivery (including fax and e-mail) these may be used for notification, service etc. The fax number or e-mail address employed shall be that provided by the party.
263. Where the Disciplinary Committee^(DS), a Summary Hearing Panel^(DS), a Disciplinary Tribunal^(DS) or an Appeal Panel^(DS) is considering a complaint resulting from (or in any way dealing with) the conviction of a pathologist in any criminal court, the verdict of (and, if relevant, the sentence imposed by) that court may not be challenged in any way.
264. Where the Disciplinary Committee^(DS), a Summary Hearing Panel^(DS), Disciplinary Tribunal^(DS) or Appeal Panel^(DS) is considering a complaint arising from (or in any way dealing with) a finding, action or sanction by the General Medical Council, the Royal College of Pathologists (or any court dealing with issues arising from such a finding etc) the finding of (and, if relevant, any sanction imposed) by the General Medical Council, Royal College of Pathologists and/or court shall not be challenged in any way.
265. Where at any point in the disciplinary process a response is requested from the pathologist^(DS) or notification required and a deadline set by which the response/notification must be provided the Chairman of the Disciplinary Committee^(DS), person or persons appointed under paragraph 62 to undertake an investigation on behalf of the Disciplinary Committee^(DS), Chairman of the Summary Hearing Panel^(DS), Chairman of the Disciplinary Panel^(DS) or Chairman of the Appeal Panel^(DS) or any other person or body acting under the Disciplinary Procedures^(DS) as appropriate to the particular response/notification may, at their discretion, extend the deadline. A request for an extension of time must be submitted at least 5 days prior to the deadline in relation to which an extension is being sought. Only in the most exceptional circumstances will a deadline be extended to allow a response/notification to be submitted less than five days before the meeting at which it is to be considered. In any case where a response/notification is not received by the deadline, or where it has been extended under this section the new deadline, it shall be determined that no response/notification was received.
266. Where any party wishes to make representation, submission or in any other way raise matters before the Disciplinary Committee^(DS), a Summary Hearing Panel^(DS), a Disciplinary Tribunal^(DS) or an Appeal Panel^(DS) the material, of whatever form, to be presented shall (subject to the provisions of paragraph 265) be provided not less than five days prior to the meeting at which it is to be considered. Where this requirement is not met it shall be determined that no material was received or submitted.
267. Where a response is requested or required from the pathologist^(DS) and the pathologist^(DS) is not able to provide a response by the given deadline due to (a) being away from their normal location; (b) illness or (c) for some other reason then the Disciplinary Committee^(DS), person or persons appointed under paragraph 62 to undertake an investigation on behalf of the Disciplinary Committee^(DS), Summary Hearing Panel^(DS), Disciplinary Tribunal^(DS) or Appeal Panel^(DS) or any other person or body acting under the Disciplinary Procedures^(DS) may extend the deadline. In cases where an action has already been taken without the response of the pathologist^(DS) the body involved may choose to reconsider that action. In all cases it shall be for the pathologist^(DS) to prove the fact he was not able to respond within the period given.
268. Where the Rules or, if issued, any guidance, provides for a matter to be dealt with by the Home Secretary this may also be dealt with by any Minister, whether minister of state or parliamentary under secretary of state, at the Home Office. The Home Secretary may delegate any power assigned to him by the disciplinary procedures^(DS) to any person or body he deems appropriate.

269. Where the Rules or, if issued, any guidance provide for a matter to be dealt with by the Delivery Board^(DS) or the Pathology Council^(DS) the Board or Council may delegate such matters to a member, or members, or to the Secretary^(DS). Such delegation may be related to a specific case or general in nature.
270. Where the Rules or, if issued, any guidance provide for any matter to be dealt with, or a decision made by, the Secretary^(DS), the Chairman of the Disciplinary Committee^(DS), the Chairman of a Summary Hearing Panel^(DS), Chairman of a Disciplinary Tribunal^(DS), Chairman of an Appeal Panel^(DS), the Chairman of Delivery Board^(DS) or the Chairman of the Pathology Council^(DS) the Secretary^(DS) or relevant chairman may delegate the matter or decision to such person as he considers appropriate. Such delegation may be specific or general in nature.
271. In relation to the provisions within these Rules or, if issued, any guidance dealing with the receipt of complaints, determination of whether information amounts to a complaint, consideration of complaints, reference of complaints to the Disciplinary Committee^(DS) and related matters the Secretary^(DS) shall have authority to act on behalf of the Delivery Board^(DS) and exercise all its powers.
272. Where the Home Secretary exercises his power to issue guidance to support these Rules, the assignment of responsibility or power within such guidance shall be considered an effective assignment or delegation of the relevant power or responsibility. Any assignment or delegation within such guidance shall not preclude any alternative or further assignment, delegation or nomination etc. allowed by these Rules.
273. The Disciplinary Committee^(DS), any Summary Hearing Panel^(DS), any Disciplinary Tribunal^(DS) and any Appeal Panel^(DS) shall have the authority to adopt such procedures, rules or conventions etc. that it believes are appropriate or desirable for the effective implementation and application of the disciplinary procedures^(DS).

INTERPRETATION

274. References within the Rules or, if issued, any guidance to matters coming to the attention of the Delivery Board^(DS) shall be taken to include coming to the attention, by any means whatsoever, of any member of the Delivery Board^(DS) or the Secretary^(DS).
275. Reference within the Rules or, if issued, any guidance to criminal courts shall be taken to include any court in the United Kingdom or elsewhere which has jurisdiction over matters which (a) are considered criminal within that jurisdiction or (b) would be considered to be a criminal matter if dealt with in England. In this regard a court-martial, whether related to the armed forces of the United Kingdom or not, shall be considered to be a criminal court.
276. Reference within the Rules or, if issued, any guidance to a criminal offence shall be taken to include any offence contrary to the criminal or military law of the country where prosecution occurred.
277. Where the Disciplinary Rules or, if issued, any guidance refers to any Act of Parliament or Statutory Instrument the reference shall be taken to refer to the Act or Instrument as modified by any subsequent legislation or, if repealed, to any subsequent Act or Instrument dealing with the same subject.
278. Where the Disciplinary Rules or, if issued, any guidance refers to any person or body the reference shall be taken to include any person or body which subsequently takes responsibility for the relevant matters.
279. Where in these Rules or, if issued, any guidance a period is specified by a number of days the following provisions shall apply to the implementation of the period - unless an alternative is specified in writing.
- The period shall include all calendar days including weekends and public holidays.
 - That every day shall end at 4pm.

- c. Where the period expires on weekend or public holiday the period shall be extended to end at 10am on the first working day after the weekend or public holiday.
280. Where at any point in the disciplinary process a response is requested from the pathologist^(DS) or notification required and a deadline set by which the response/notification must be provided the deadline shall, unless an alternative is specified in writing, expire at 4pm on the date given.
281. Disciplinary action shall be construed to have been initiated on the date the Disciplinary Committee^(DS) determines the complaint should be referred to a Summary Hearing Panel^(DS), referred to a Disciplinary Tribunal^(DS), dealt with under the Criminal Convictions Procedure, dealt with under the Avoidance of Jurisdiction Procedure or under the Cause for Concern Procedures.

COMPOSITION OF THE SUMMARY HEARING PANELS, DISCIPLINARY TRIBUNALS AND APPEAL PANELS

282. The appointment of members of Summary Hearing Panels^(DS) and Disciplinary Tribunals^(DS) shall be subject to the following restrictions.
- No member of the Pathology Council^(DS) shall be appointed.
 - No employee of the Home Office shall be appointed.
 - No member of the Disciplinary Committee^(DS) shall be appointed.
 - Members of the Delivery Board^(DS) may be appointed subject to the restriction that:
 - They must not be in the majority and must not be the only lay member^(DS);
 - They must not be members of the Professional Standards Committee^(DS).
283. The appointment of members of an Appeal Panel^(DS) shall be subject to the following restrictions.
- No member of the Delivery Board^(DS) shall be appointed.
 - No member of the Disciplinary Committee^(DS) may be appointed.
 - No member of the Disciplinary Tribunal^(DS) (the finding or sanction of which is being appealed) may be appointed.
 - No employee of the Home Office shall be appointed.
284. In paragraphs 282 and 283 reference to being a member of the Delivery Board^(DS) or Disciplinary Committee^(DS) shall be taken to include persons who were previously members of one or more of those bodies and were members at the time either body would have dealt with the complaint.
285. The appointment of a member of a Summary Hearing Panel^(DS), Disciplinary Tribunal^(DS) or Appeal Panel^(DS) to a position (other than membership of the Disciplinary Committee^(DS)) which would (due to paragraphs 282 or 283) have prevented their appointment to the Summary Hearing Panel^(DS), Disciplinary Tribunal^(DS) or Appeal Panel^(DS) does not invalidate their appointment. Further, such appointment does not undermine the validity of the actions of the Summary Hearing Panel^(DS), Disciplinary Tribunal^(DS) or Appeal Panel^(DS).
286. Any person selected to serve on a Summary Hearing Panel^(DS), Disciplinary Tribunal^(DS), Appeal Panel^(DS) or as clerk (or deputy clerk) to a Disciplinary Tribunal^(DS) must declare themselves as unavailable for selection where there is reason to believe his involvement would reasonably bring the impartiality of the body into question. Examples of circumstances which may prevent a person serving include, but are not limited to, the following.
- He has a vested interest in the outcome of the action.
 - He was involved, in any way, in a case that gave rise to the complaint.
 - He was, in any way, involved in making the complaint.
 - He investigated the complaint on behalf of the Disciplinary Committee^(DS).
 - He has a professional or personal relationship with persons that could reasonably lead to his impartiality being questioned.
 - He is subject to disciplinary action under the disciplinary Rules himself.
 - He is involved with a review of the matter in any other arena e.g. General Medical Council hearing.

- h. He has previously sat on a Summary Hearing Panel^(DS), Disciplinary Tribunal^(DS) or Appeal Panel^(DS) considering a complaint against the same pathologist^(DS).
287. The function of lay members^(DS) shall be to represent the public interest and to ensure that the discussion does not turn inward and become exclusively concerned with professional and technical matters and focussed on purely professional interests.

CONFIDENTIALITY

288. The proceedings of the Disciplinary Committee^(DS), Summary Hearing Panels^(DS), and, where held in private, Disciplinary Tribunals^(DS) and Appeal Panels^(DS) are to be treated as confidential. This confidentiality does not extend to the existence of the proceedings, the nature of the complaint under consideration, the decision or the sanction imposed. Further, the confidentiality will be subject to the provisions of the disciplinary procedures^(DS) which deal with the release of information.
289. The disclosure of information relating to disciplinary action shall be as set out in the disciplinary procedures^(DS). In particular all disclosure to the Criminal Justice System shall be via the Crown Prosecution Service as set out within these Rules and, if issued, any guidance.
290. The Chairman of the Delivery Board^(DS) shall ensure the Home Office maintains up to date “press lines” so that appropriate information is disclosed to the press (either by public notice or in response to enquiries).
291. The Chairman of the Delivery Board^(DS) shall have authority to disclose information in circumstances not set out in these Rules if it is, in his opinion, necessary in the public interest or the interests of the Criminal Justice System.

RECORDS

292. The Delivery Board^(DS) shall maintain records of complaints and disciplinary action including records of the Disciplinary Committee^(DS), Summary Hearing Panels^(DS), Disciplinary Tribunals^(DS) and Appeal Panels^(DS).
293. All records of the Delivery Board^(DS) shall be subject to Crown copyright and shall not be reproduced without the Home Secretary’s consent.

Public and Discipline Records

294. The records of complaints and disciplinary action may form part of the public record^(DS) or discipline record^(DS) as set out below.
295. Where the Disciplinary Committee chooses to provide advice under the provisions of paragraph 77 this shall not form part of the public record^(DS) or disciplinary record^(DS). The provision of such advice shall not generally be disclosed. This is because such advice may have been provided by the Disciplinary Committee^(DS) without the pathologist^(DS) having the opportunity to respond.
296. The period during which information forms part of the public record^(DS) or discipline record^(DS) is determined by the outcome of the complaint. This is set out in the table in paragraph 298 below. Where the period specified in relation to the public record^(DS) expires, the material shall cease to form part of the public record^(DS). If the period specified in relation to the discipline record^(DS) expires and no further complaints have been received, the matter shall cease to form part of the discipline record^(DS). If a further complaint is received the matter shall be removed from the disciplinary record^(DS) at the same time as the information relating to the most recent complaint.
297. In all cases where the provisions of this section do not restrict the length of time information is maintained on the public record^(DS) or discipline record^(DS) the information shall be kept on all records indefinitely.
298. The periods for retaining information are as set out below:

OUTCOME	PUBLIC RECORD	DISCIPLINE RECORD
Summary dismissal by the Disciplinary Committee with no advice provided under paragraph 76	Not part of record	One year
The Disciplinary Committee decides to take no action with no advice provided	Not part of record	One year
Letter of advice from the Discipline Committee under paragraph 76	Not part of record	Five Years
The Disciplinary Committee act in relations to concern under paragraph 87	Two Years	Five Years
Referral to a Summary Hearing Panel	Five Years	Indefinitely
Referral to a Disciplinary Tribunal where a sanction other than suspension or removal is imposed	Five Years	Indefinitely
Referral to a Disciplinary Tribunal where a sanction of suspension or removal is imposed	Indefinitely	Indefinitely
Recording of any sanction under the Avoidance of Jurisdiction Procedure	Indefinitely	Indefinitely
Recording of any sanction in response to a consideration pursuant to paragraph 75	Indefinitely	Indefinitely
Determination of the Home Secretary pursuant to paragraph 255.	Indefinitely	Indefinitely

299. The public record ^(DS) and discipline record ^(DS) shall consist of the following information.
- The nature of the complaint.
 - The finding in relation to the complaint.
 - The sanction imposed or other determination of the matter.
 - Whether the pathologist ^(DS) is prohibited from applying for registration.
300. Records of disciplinary action taken by the Policy Board ^(DS) or Scientific Standards Committee ^(DS) shall also form part of the public record ^(DS) and discipline record ^(DS). The periods for which they shall continue to be part of the record and the information disclosed shall be determined by the Chairman of the Delivery Board ^(DS). The periods shall reflect the times applicable to similar action under this section.
301. The Chairman of the Delivery Board ^(DS) shall have the right to restrict the information in the public or discipline records if he believes it necessary in the public interest. He also has the right to restrict the disclosure of information contained in those records.

Records of the Disciplinary Committee, Summary Hearing Panel, Disciplinary Tribunal and Appeal Panel

302. The provisions of this section are subject to the provisions of the Data Protection Act 1998, the Freedom of Information Act 2000 and the provisions for disclosure of information set out in the disciplinary procedures ^(DS).

303. Disciplinary Committee ^(DS) papers, including minutes and all materials put before the Disciplinary Committee ^(DS), shall be confidential and disclosed only exceptionally and on the approval of the Chairman of the Delivery Board ^(DS).
304. Summary Hearing Panel ^(DS) papers (including minutes, transcripts and all materials put before the panel) shall be provided, on request, to parties to the hearing. The papers shall otherwise be treated as confidential and disclosed only exceptionally and on the approval of the Chairman of the Delivery Board ^(DS).
305. Disciplinary Tribunal ^(DS) papers (including minutes, transcripts and all material put before the Tribunal) shall be made available (subject to the provisions of paragraph 234), on request, to the parties to the Disciplinary Tribunal ^(DS). The papers, except those relating to issues dealt with in private, shall be made available to the public.
306. Appeal Panel ^(DS) papers (including minutes, transcripts and all material put before the panel) shall be made available, on request, to the parties to the Appeal Panel ^(DS). The papers shall be made available to the public unless the Chairman of the Appeal Panel ^(DS) directs they shall be private.
307. The provisions of paragraphs 305 and 306 shall not require the disclosure of papers, such as post-mortem reports, which (a) may have been discussed in a public hearing but not made available to non-parties and (b) are not, in the opinion of the Chairman of the Delivery Board ^(DS), suitable for publication.
308. The Chairman of the Delivery Board ^(DS) has the authority to restrict the information released to the public under this section if he believes it is in the public interest to do so.
309. The Chairman of the Delivery Board ^(DS) may charge appropriate costs to cover the cost of production of materials before supplying them to any person.

Additional Disclosure Provisions

310. Where an Approved Party ^(DS) makes a request for information relating to complaints and/or disciplinary action against a pathologist which is necessary for them to undertake their functions, this information shall be provided even if (a) it no longer forms part of the public record ^(DS) or (b) the discipline record ^(DS) or (c) the provisions of paragraphs 303 to 307 would suggest the material should not be disclosed. The Chairman of the Delivery Board ^(DS) is responsible, subject to paragraph 312, for ensuring that only appropriate information is disclosed.
311. Where a request for information is received from an officer, department or agency of HM Government, the Scottish Executive, the Scottish Parliament, the Northern Ireland Assembly or the Welsh Assembly not specified as an Approved Party ^(DS), the Chairman of the Delivery Board ^(DS) shall consider the request. Where the information requested is reasonably necessary, subject to paragraph 312, for the execution of the functions of the requesting person and/or organisation the information may be released.
312. Certain Approved Parties ^(DS), in particular the Criminal Cases Review Commission, have statutory power to require disclosure of information. Where a request for information is made under such authority the Chairman of the Delivery Board ^(DS) shall provide all information requested. Similarly, the Chairman of the Delivery Board ^(DS) shall comply, in full, with any request for information made with proper legal authority.

COMMENCEMENT

313. These procedures come into force on 1 July 2007 and shall apply to any complaint received on or after that date regardless of when the incident complained of occurred.

314. Complaints received before the commencement date^(DS) specified in paragraph 313, which have not been finally determined, shall be dealt with according to the transitional arrangements set out in Annex 1 to these Rules.
315. In the event that application of the transitional arrangements is not clear or ambiguous as to what shall happen in a particular case the Secretary^(DS) shall decide the approach to be taken.
316. Should the Home Secretary issue guidance (under paragraph 7 of these Rules) that guidance shall, subject to the requirement that no guidance may come into effect prior to the commencement date^(DS), come into force on (a) the date specified by the Home Secretary or (b) where no such date is provided upon issue.

DEFINITIONS

317. To assist the interpretation of the procedures the following definitions will be used (unless the circumstances make clear that this is not intended).

Appeal Panel	An Appeal Panel established by the Pathology Council ^(DS) .
Approved Parties	The approved parties are as follows. <ul style="list-style-type: none"> • The Attorney General. • Chief Officers of Police^(DS). • The Crown Prosecution Service. • The Director of Public Prosecution. • HM Coroners. • The Home Office. • The National Crime Operations Faculty. • The Parliamentary Ombudsman. • The Criminal Cases Review Commission. • The Serious and Organised Crime Agency. • Legal Secretariat to the Law Officers. • The Advocate General. • The Crown Office. • HM Procurators Fiscal. • The General Medical Council. • The National Policing Improvement Agency. • Council for Healthcare Regulatory Excellence.
Chairman of the Delivery Board	This shall be the Chairman of the Delivery Board ^(DS) unless, for any reason, he is not able to undertake the duties as such. In this case the Home Secretary shall nominate a person to act in this capacity with regard to these procedures.
Chairman of the Pathology Council	This shall be the Chairman of the Pathology Council ^(DS) unless, for any reason, he is not able to undertake the duties as such. In this case the Home Secretary shall nominate a person to act in this capacity with regard to these procedures.
Code of Conduct	The Code of Conduct issued under the title “Good Medical Practice in Forensic Pathology” and any other documents issued or declared to constitute a code of conduct by the Home Secretary and/or Pathology Council ^(DS) that sets out standards of conduct required of registered forensic pathologists. References to the Code of Conduct shall be taken to include any document of similar purpose issued or declared to constitute a code of conduct by the Home Secretary, Pathology Council ^(DS) or Policy Board ^(DS) in force at the time of the incident.
Code of Practice	The Code of Practice issued by the Home Secretary and/or Pathology Council ^(DS) and any document declared, by the Home Secretary or Pathology Council ^(DS) , to constitute a code of practice. References to the

	Code of Practice shall be taken to include any document of similar purpose issued (or declared to constitute a code of practice) by the Home Secretary, Pathology Council ^(DS) or Policy Board ^(DS) in force at the time of the incident.
Commencement Date	The date, set out in paragraph 313, upon which these Rules become effective.
Delivery Board	The Home Office Delivery Board for Forensic Pathology.
Designated Parties	The parties routinely informed of changes to the Register. These are as follows. <ul style="list-style-type: none"> • Chief Officers of Police ^(DS). • HM Coroners. • Persons on the Register ^(DS). • Crown Prosecution Service. • The pathologist's ^(DS) employer ^(DS).
Disciplinary Committee	The Disciplinary Committee of the Delivery Board ^(DS) .
Disciplinary Committee Rules	The rules which set out the procedure for handling complaints up to the stage at which a case is referred to a Summary Hearing Panel ^(DS) or a Disciplinary Tribunal ^(DS) .
Disciplinary Procedures	The Disciplinary Rules and any guidance issued under paragraph 7 therein.
Disciplinary Tribunal	A Disciplinary Tribunal of the Delivery Board ^(DS) .
Disciplinary Tribunal Rules	The rules which prescribe the procedure for handling the most serious cases, with a range of sanctions which could include the removal of a pathologist's ^(DS) name from the Register ^(DS) .
Discipline Record	Records of complaints and disciplinary action against a pathologist ^(DS) held by the Delivery Board ^(DS) which are available to, and may be used by, the Disciplinary Committee ^(DS) , Summary Hearing Panels ^(DS) , Disciplinary Tribunals ^(DS) and Appeal Panels ^(DS) when considering a complaint against a pathologist ^(DS) .
Employer	References to an employer within the disciplinary procedures ^(DS) refer to cases where a pathologist provides services as a forensic pathologist as part of his employment. In these cases the organisation for which he works will be considered his employer regardless of its legal position. Where a pathologist provides services direct to the police or coroners he shall be considered not to have an employer.
Fit to Practise	A pathologist shall be regarded for the purposes of these Rules as fit to practise if there are no matters concerning his conduct (including malpractice ^(DS) or misconduct ^(DS)), his professional performance, or his state of (physical or mental) health which (when considered together) make him unfit to be on the Register ^(DS) . The phrases "fit to practise" and "unfit to practise" shall be construed accordingly.
Lay Member	A person who is not, nor has been: <ul style="list-style-type: none"> • A forensic pathologist in the UK or elsewhere; or • A person licensed to practise as a medical practitioner in the UK or elsewhere.
Legally Qualified	Means a person who is, or has at some time, been: <ul style="list-style-type: none"> • Qualified to practise as a solicitor or barrister within England and

	<p>Wales; or</p> <ul style="list-style-type: none"> • Qualified to practise in positions equivalent to solicitor or barrister in Scotland or Northern Ireland.
Malpractice	Breach of the Code of Practice ^(DS) .
Misconduct	Breach of the Code of Conduct ^(DS) or such other behaviour that brings the pathologist's ^(DS) presence on the Register ^(DS) into question.
Pathologist	The forensic pathologist against whom a complaint has been made.
Pathology Council	The Home Office Forensic Pathology Council.
Police	<p>References to the police, and Chief Officers of police, shall be taken to refer to the following bodies and the persons in charge of them.</p> <ul style="list-style-type: none"> • The 43 territorial police forces in England and Wales. • The Association of Chief Police Officers. • The British Transport Police. • The National Crime Operations Faculty. • The Serious and Organised Crime Agency.
Policy Board	<p>The Policy Advisory Board for Forensic Pathology.</p> <p>The functions of this Board have now, or are being, been transferred to the Pathology Council ^(DS) and the Delivery Board ^(DS).</p>
Professional Standards Committee	The Professional Standards Committee of the Pathology Council ^(DS) .
Professional Member	<p>A person who is now, or has at some time, been a forensic pathologist on the Home Office Register ^(DS) subject to the restrictions:</p> <ul style="list-style-type: none"> • He must have been on the Register ^(DS) within five years of the start of the disciplinary action; and • He must not have been removed from the Register ^(DS) as the result of disciplinary action; or • Has held a similar position outside of England and Wales.
Public Record	Information which will be disclosed to the public.
Register	The Home Office Register of appropriately qualified and experienced forensic pathologists.
Registration and Training Committee	The Registration and Training Committee of the Delivery Board ^(DS) .
Scientific Standards Committee	The Scientific Standards Committee of the Policy Board ^(DS) .
Secretary	The Secretary to the Delivery Board ^(DS) , who is also the Secretary to the Disciplinary Committee ^(DS) and any Summary Hearing Panel ^(DS) . If, for any reason, he is not able to undertake the duties as such the Home Secretary or Chairman of the Pathology Council ^(DS) shall nominate a person to act in this capacity with regard to these procedures.
Summary Hearing Panel	The panel which conducts summary hearings.
Summary Hearing Rules	The rules which prescribe the procedure for handling the less serious cases, with a range of sanctions which does not include the removal of a pathologist's name from the Register ^(DS) .

ANNEX 1: TRANSITIONAL ARRANGEMENTS**Stage 1 - Scientific Standards Committee**

- I. Where a complaint has been received by the Policy Board ^(DS) but has not yet been the subject of substantive consideration by the Scientific Standards Committee ^(DS) it shall be referred to the Disciplinary Committee ^(DS) for consideration under these disciplinary procedures ^(DS).
- II. Where paragraph I applies the complaint shall, from the point of referral to the Disciplinary Committee ^(DS), be dealt with in accordance with these disciplinary procedures ^(DS) as if it had originally been referred to the Disciplinary Committee ^(DS) by the Delivery Board ^(DS).
- III. Where a complaint has been received by the Policy Board ^(DS) and the Scientific Standards Committee ^(DS) has started the substantive consideration of the complaint, but not reached a conclusion, the matter shall be dealt with under the Constitution of the Policy Board ^(DS) up to the point where the Scientific Standards Committee ^(DS) determines the course of action.
- IV. Where paragraph III applies and the Scientific Standards Committee ^(DS) decide to provide advice to the pathologist ^(DS) the matter shall be concluded at that point.
- V. Where paragraph III applies and the Scientific Standards Committee ^(DS) decide to caution the pathologist ^(DS) the right of appeal under the Policy Board ^(DS) Constitution shall not apply. The appeal shall be dealt with under these disciplinary procedures ^(DS) as if the caution were a reprimand imposed by a Disciplinary Tribunal ^(DS).

Stage 2 – Disciplinary Tribunal

- VI. Where paragraph III applies and the Scientific Standards Committee ^(DS) decide to, or has already decided to, refer the matter to a disciplinary tribunal of the Policy Board ^(DS) the matter shall be dealt with as set out below.
- VII. Where a complaint has been considered by the Scientific Standards Committee ^(DS) and it decides to refer the matter to a disciplinary tribunal of the Policy Board ^(DS), or has already done so, but the disciplinary tribunal of the Policy Board ^(DS) has not begun the substantive consideration of the matter it shall be dealt with as follows.
 - a. Where the disciplinary tribunal of the Policy Board ^(DS) has not been formed the matter shall be dealt with under these disciplinary procedures ^(DS) as if the complaint had been referred to a Disciplinary Tribunal ^(DS) by the Disciplinary Committee ^(DS).
 - b. Where the disciplinary tribunal of the Policy Board ^(DS) has been formed the matter shall be dealt with under these disciplinary procedures ^(DS) (as if the complaint had been referred to a Disciplinary Tribunal ^(DS) by the Disciplinary Committee ^(DS)). The disciplinary tribunal of the Policy Board ^(DS) that has been formed shall be a valid Disciplinary Tribunal ^(DS) regardless of any inconsistencies between its membership and the provisions of these disciplinary procedures ^(DS).
- VIII. Where a complaint has been referred to a disciplinary tribunal of the Policy Board ^(DS) and the tribunal has begun the substantive consideration of the matter the tribunal shall continue to act under the Constitution of the Policy Board ^(DS) up to the point of determination.
- IX. Where paragraph VIII applies and the disciplinary tribunal of the Policy Board ^(DS) decide to reprimand, suspend or remove the pathologist ^(DS) the right of appeal under the Policy Board ^(DS) Constitution shall not apply. The appeal shall be dealt with under these disciplinary procedures ^(DS) as if the sanction were a sanction imposed by a Disciplinary Tribunal ^(DS).

Stage 3 - Appeal

- X. Where a disciplinary tribunal of the Policy Board ^(DS) has concluded consideration of a complaint and no appeal has been lodged or, if an appeal has been lodged, no panel established to hear the appeal, the appeal process set out in these disciplinary procedures

^(DS) shall be employed rather than the procedure set out in the Constitution of the Policy Board ^(DS).

- XI. Where a disciplinary tribunal of the Policy Board ^(DS) has concluded consideration of a complaint, an appeal has been lodged and a panel established to hear the appeal, the appeal process set out in the Constitution of the Policy Board ^(DS) shall apply.

General Matters

- XII. It is intended that, as far as practical, the provisions of the disciplinary procedures ^(DS) shall apply (subject to appropriate modification to account for the different bodies involved) to all disciplinary action, whether under these Rules or the Constitution of the Policy Board ^(DS). In particular the following provisions of the disciplinary procedures ^(DS) shall apply to all disciplinary action after the commencement date ^(DS).
- a. The power of the Pathology Board ^(DS) and Disciplinary Committee ^(DS) to oversee the disciplinary process and ensure sanctions are complied with.
 - b. The power of the Disciplinary Committee ^(DS) to deal with failure to co-operate.
 - c. The power of the Disciplinary Committee ^(DS) to deal directly with cases involving criminal conviction.
 - d. The provisions relating to avoidance of jurisdiction.
 - e. Provisions related to the records that shall be created and/or maintained.
 - f. Provisions related to the disclosure of information.
- XIII. Where consideration of a complaint is transferred from the procedures under the Constitution of Policy Board ^(DS) to these disciplinary procedures ^(DS) there are likely to be inconsistencies between the requirements of these Rules and those under which the matter has previously been dealt. Such inconsistencies shall not undermine the validity of any action.

Governance

- XIV. Should the Rules be implemented before the Disciplinary Committee ^(DS), Delivery Board ^(DS) and/or Pathology Council ^(DS) has assumed its role (or the relevant parts of its role) then the following provisions shall apply until the Chairman of the Delivery Board ^(DS) determines, in relation to each provision, that the bodies named shall take on the responsibilities set out in the Rules and, if issued, any guidance.
- a. If the Disciplinary Committee ^(DS) has not been fully established its functions, powers etc. shall be exercised by the Scientific Standards Committee ^(DS). All references to the Disciplinary Committee ^(DS) and its officers/officials shall be construed as references to the Scientific Standards Committee ^(DS) and the equivalent (or as near as possible equivalent) officers/officials.
 - b. If the Delivery Board ^(DS) has not fully adopted its functions under these Rules its functions, powers etc. shall be exercised by the Policy Board ^(DS). All references to the Delivery Board ^(DS) and its officers/officials shall be construed as references to the Policy Board ^(DS) and the equivalent (or as near as possible equivalent) officers/officials.
 - c. If the Pathology Council ^(DS) has not been fully established its functions, powers etc shall be exercised by the Home Secretary or his nominee. All references to the Pathology Council ^(DS) and its officers/officials shall be construed as references to the Home Secretary or his nominee.
 - d. In the event that the provisions of this section are utilised the disciplinary procedures ^(DS) shall be interpreted to give effect to the intention set out herein of allowing the disciplinary procedures ^(DS) to operate effectively during the transition between governance regimes.

The Home Secretary

- XV. The provisions related to the Home Secretary's overall responsibility for the Register and his right to determine the membership of the Register ^(DS), as set out from paragraph 248, are a re-statement of policy. This policy is not introduced by these disciplinary procedures ^(DS) but re-stated within these Rules for the purpose of clarity.

- XVI. It is clear from paragraph XV that the provisions related to the Home Secretary's overall responsibility for and right to determine membership of the Register^(DS) apply to the consideration of all complaints regardless of whether it is under these disciplinary procedures^(DS) or any previous procedures.

Matters Under The Procedures Of The Delivery Board^(DS)

- XVII. Where a complaint is, immediately prior to the introduction of these disciplinary procedures^(DS), being handled under a previous version of the disciplinary procedures^(DS) it shall be handled under these procedures.
- XVIII. Paragraph XVII applies to all complaints being handled under the disciplinary procedures^(DS) regardless of whether it was initially subject to the procedures of the Policy Board^(DS) or the Delivery Board^(DS).

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