

Summary of Existing Fitness to Practice Process

1. Referral to a Medical Panel is made by the by the Professional Conduct Committee¹ (PCC)² of the BSB (**Rules 7 and 8**). Referrals can be based on any information the BSB receives which raises a question about whether the barrister is fit to practise: this includes information that comes to light during the course of an investigation of a conduct complaint.
2. The President of COIC convenes a Medical Panel consisting of five members (three barristers two of whom must be QCs with one of the QCs chairing the Panel, a medical expert and a lay representative) (**Rules 5 and 9**);
3. The President writes to the barrister notifying of him/her of the referral, providing potential dates for a preliminary hearing (**Rule 10**);
4. A preliminary hearing takes place at which the Panel may give directions for a full hearing including directions about disclosure of medical records and examination by the appointed AMA (Appointed Medical Advisor) where it is proportionate (in line with the provisions of the Data Protections Act), and the evidence indicates that it is reasonable and necessary to enable the BSB to discharge their function, and protect the public. The Panel can also make directions on an interim basis if there is need to protect the public, and the barrister can give voluntary undertakings not to practise or accept conditions on his/her practise (such as seeking medical assistance) until the conclusion of a full hearing (**Rule 13**);
5. If a barrister has been examined by an AMA, he or she will be sent the AMA's report along with a summary of the case against him/her and potential dates for a full hearing (**Rule 14**);
6. At the full hearing the AMA will attend if called upon to do so and may be subject to cross-examination by the barrister or his or her representative (**Rule 15**);
7. At the conclusion of the full hearing, the Medical Panel decides if the barrister is unfit to practise and if so it can decide: to take no further action; impose a period of interim suspension of up to six months; impose an indefinite suspension; and, impose conditions on the barrister's practice. The Panel is also able to accept voluntary undertakings from the barrister (**Rule 16**);
8. At any point after the end of the period of interim suspension or prohibition or where there is a significant change in circumstances, the barrister can apply for a Medical Panel to be convened to review his/her case (**Rules 17-18**). The will involve the Medical Panel following the same procedure as set out above (**Rule 19**).
9. All decisions, including the initial decision to refer a case to a Medical Panel, can be appealed to a Review Panel (**Rule 20**). Review Panels consist of four members (**Rule 6**). Reviews are conducted by way of a rehearing and the Review Panel has the same powers as a full Medical Panel.

¹ Formerly named the 'Complaints Committee', prior to January 2012.

² This role was, until January 2011, conducted by the Complaints Commissioner.