



Registration Council of Clinical Physiologists

GUIDANCE NOTE

Interim Measures

This guidance has been issued by the RCCP for the FtP Panels and to assist those appearing before them

Introduction

Interim Measures protect the public by restricting or suspending a Registrant's practice under RCCP registration. Interim Measures will restrict/suspend a Registrant's practice under RCCP registration pending the outcome of an investigation and fitness to practise proceedings. This means that Interim Measures can be imposed even before the RCCP have considered the substance of the concerns.

Interim Measures may be required where the concerns raised about a Registrant are so serious, that Interim Measures are necessary for the protection of the public and/or otherwise in the public interest and/or in the interest of the Registrant.

At what stage can Interim Measures be imposed

The Registrar will carry out a risk assessment of each complaint when the RCCP receives it. Where the Registrar identifies a risk, he/she will refer the complaint to an Interim Measures Panel by making an application.

Note applications for Interim Measures need to be made as soon as reasonably possible. The main purpose of Interim Measures is to identify an immediate risk and minimise it, therefore the RCCP needs to act quickly. If an application for Interim Measures has not been made immediately, it will be difficult to maintain that Interim Measures are necessary, if there has

been an unjustified delay. The Interim Measures Panel may raise the question of why an application has not been made, until now?

The RCCP will need to put the best available evidence to the Interim Measures Panel, it is not a requirement that the evidence is as full as for a fitness to practise hearing. This may mean proceeding without signed Witness Statements.

If the complaint has already reached the Assessment Committee/Professional Conduct Committee/Health Review Panel that Committee will also be able to implement Interim Measures by holding Interim Measure Powers.

The Registrant will be given seven days' notice by the RCCP that they are considering the imposition of Interim Measures. The Registrant will be asked to submit any submissions in writing before the date of the Interim Measures Panel's meeting. The Registrant will also be informed that the Panel has the power to decide without their written submissions if they are not received in time of the Panel's meeting.

The Interim Measures Panel - The Meeting

- **Bearing in mind that nothing has been proved against the Registrant, why should his/her ability to work be restricted now?**
- **What is so urgent?**

The burden is on the RCCP to establish at least one of the grounds for the Interim Measures. The evidence before the Interim Measures Panel should be credible, and the Panel should carry out a risk assessment, rather than a fact-finding exercise. In other words, it is not for the Panel to prove the facts or make findings on facts. It is for the Interim Measures Panel to determine the allegations against the Registrant. It is likely that due to the urgency of imposing Interim Measures, the RCCP may have very limited information to put before the Interim Measures Panel. The nature of the evidence may differ according to the ground that the application is being made upon. The assessment of risk has to be based on reliable information/evidence.

The test to be applied is the following, are the Interim Measures:

- Necessary for the protection of the public and/or
- Otherwise in the public interest and/or
- In the interest of the Registrant

The Panel may decide that Interim Measures are necessary on more than one of the grounds above. Each ground will require the necessary considerations, which a panel will need to

assess and weigh up when coming to a decision.

The gravity of the allegations

The Interim Measures Panel will need to act proportionately - If the ultimate sanction at a full hearing is not likely to be suspension or removal, it is unlikely that Interim Suspension Measures, will be appropriate/imposed, and the same principles apply for conditions.

Prejudice to the Registrant

The Interim Measures Panel will need to balance the public interest against the interests of the Registrant. Interim Measures amount to serious interference in the Registrant's ability to work under RCCP registration. The Interim Measures may well adversely affect the reputation of the Registrant even if the allegations are not subsequently proved.

Necessary for the protection of the public

For Interim Measures to be necessary to protect the public, the panel must be satisfied that there is a real risk to patients, colleagues or other members of the public, if the measures are not imposed. The Panel should balance the risk to the public of not taking any action with the Registrant's right to practice his/her profession under RCCP registration.

The panel will need to consider the seriousness of the concern and the weight of the evidence, this may include considering the harm that has already been caused or could have been caused to the public. Particular cases that involve sexual misconduct, dishonesty and death are the more serious types of cases.

The Interim Measures Panel will need to consider the risk of repetition of the conduct and whether it is likely to be repeated if the Registrant's practice is not restricted under RCCP registration. If the conduct is serious and there is the likelihood of repetition, then the risk of harm to patients will be increased.

The seriousness of the concerns and risk of repetition are then assessed with reference to the particular circumstances of each case, and each case should be considered on its own facts. The panel may consider insight and remediation when assessing the continuing risk that the Registrant presents.

Examples of cases that may fall under this category:

- Lack of competence which causes a serious risk of harm to patients
- Health problems (addiction) which cause a Registrant to practice whilst unfit

- Inappropriate sexual or violent conduct towards colleagues/patients

Public Interest

- ***Preserving public confidence in the profession***
- ***Maintaining good standards of conduct and performance***

The RCCP's role is to promote and maintain public confidence in the professions that it regulates. The Interim Measures Panel will decide on whether public confidence in the professions would be damaged if the Registrant were allowed to hold unrestricted registration.

It is rare for an Interim Measures Panel to impose Interim Measures solely on the ground of public interest if there is no evidence of risk of harm to patients/public. Therefore, the threshold for imposing Interim Measures solely on this ground is high.

Note the need to maintain public confidence in the profession can be addressed at the full fitness to practise hearing – why do you need to act now?

The Interim Measures panel would need to be satisfied that public confidence in the profession will be seriously damaged if the Registrant were to continue to practice without restriction under RCCP registration.

The Panel should set out clearly the nature and seriousness of the damage to the reputation of the profession if there were no Interim Measures imposed.

The Panel should ensure that their decision is proportionate - The panel will need to weigh up the likelihood of serious damage to public confidence in the profession, if the Registrant were allowed to continue to practice, against the interests of the Registrant and likely consequences of action against the Registrant.

The case of *Sheikh V GDC [2007]* is helpful when considering the public interest, especially the following extract:

"It's is a very serious thing indeed for a dentist or a doctor to be suspended. It is serious in many cases just because of the impact on that person's right to earn a living. It is serious in all cases because of the detriment to him in reputational terms. Accordingly, it is, in my view,

likely to be a relatively rare case where a suspension order will be made on an interim basis on the ground that it is in the public interest. I do not use the words “exceptional case” because such language is easily capable of being twisted and exploited in subsequent cases; but I do think, as I say, it is likely to be a relatively rare case. Ultimately, of course, all these things have to be decided on the facts of each particular case.” Mr Justice Davis paragraph 16 Sheikh V GDC.

Interests of the Registrant

May include:

- **Cases where the Registrant lacks insight and needs to be protected from him/herself**
- **Health cases**

There may be cases where a concern has been raised about a Registrant’s health and their health may impact their ability to practice safely. The Interim Measures Panel should bear in mind that their primary duty is to protect the public and public interest and not to assume responsibility for the rehabilitation of the Registrant. However, where a Panel does impose conditions on the Registrant’s registration, they may impose conditions that include ongoing treatment or supervision.

Interim Measures in the interest of the Registrant is a ground which rarely justifies Interim Measures on its own. It is more common, for this to be an additional ground which sits alongside one of the other two grounds. For example, a Registrant that is alleged to have an addiction to drugs is likely to have Interim Measures imposed on the grounds of public protection, but a compelling argument would also be made for their own interests. Therefore, the Interim Measures could be imposed on both grounds.

The powers of the Panel

The Interim Measures Panel should first consider:

- Are any Interim Measures required?
- What risk exists?
- Can the risk be addressed without any Measures?
- If Interim Measures are required – would conditions be sufficient to address the risk?
- If conditions would not be sufficient – Impose Suspension
- The length of the Interim Measures should be the minimum necessary to address the risk identified.

The panel has the following powers:

- To not impose Interim Measures
- To restrict the Registrant's practice with conditions on their Registration
- Suspend the Registrant's practice under RCCP Registration for a certain period of time

Interim Measures can be imposed for a maximum period of 12 months. The Interim Measures will need to be reviewed every six months.

Where it will be likely for Interim Measures to be imposed

The decision to impose Interim Measures depends on the circumstances of each case, the following are mere examples of circumstances where a Panel may decide to impose Interim Measures:

- Allegations of poor clinical performance /substandard care – Where the practice poses a real risk to public safety.
- Sexually inappropriate behaviour toward patients.
- Under Police investigation for sexual or criminal offences.

Restrictions – Purpose V Impact

There are two types of Interim Measures a Panel can impose:

- Interim Conditions
- Interim Suspension

The Interim Measures Panel must place the minimum necessary restriction on the Registrant to address the risk identified. The Panel should start by considering whether Interim Conditions are suitable if Interim Conditions are not appropriate to manage the risk the Panel should consider an Interim Suspension.

If the Interim Measures Panel decides to impose conditions, they must ensure that the conditions are enforceable and workable and will protect the public/public interest.

Decision – Determination

The Interim Measures Panel should ensure that they clearly set out the reasoning for their decision and the grounds upon which they have imposed the Interim Measures. Due to the

fact that the RCCP does not hold an oral hearing, it is really important that the Registrant is fully informed of the decision and how the Panel came to their decision.

Notification

The Registrant should be notified of the decision of the Panel as soon as possible.

Reviews

At any review, the Interim Measures Panel must fully consider all the circumstances relating to the case, including any new information. It must decide whether the Interim Measures should be maintained, varied, replaced or revoked. Interim Measure reviews will be carried on until the Professional Conduct Committee/Health Review Panel or the Appeal Panel revoke the Measures.

Interim Measures can be reviewed at any time at the request of the Registrant or RCCP where:

- The terms of the Interim Measures have been breached.
- New evidence relevant to the Interim Measures has become available.

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Documentation Version Control

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