

# AHCS incorporating RCCP Restoration Rules

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## Introduction

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

## When a restoration application can be made

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

## Procedure for restoration

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

10. The Case Officer's comments must be limited to background information and should not include any substantive arguments which the AHCS wishes to put to the Panel in relation to the restoration application.

## Issues for the panel

11. The Panel must not grant an application for restoration unless it is satisfied on such evidence as it may require, that the applicant:
  - meets the general requirements for registration; and
  - is a fit and proper person to practise the relevant profession, having regard to the circumstances that led to removal.
12. Removal from the Register is a sanction of last resort, which is only used in cases involving serious, deliberate or reckless acts and where there may be a lack of insight, continuing problems or denial, or where public protection in its widest sense cannot be secured by any lesser means.
13. The reasons a person seeking restoration was originally removed from the Register will invariably be highly relevant to the Panel and it is insufficient for an applicant merely to establish that they meet the requisite standard of proficiency and the other general requirements for registration.
14. An application for restoration is not an appeal against, or review of, the original decision and the Panel should avoid being drawn into the justification for the findings of the original Panel or the sanction it recommended. However, in determining applications for restoration, the issues which a Panel should consider include:
  - the matters which led to removal and the reasons given by the original Panel for recommending that sanction;
  - whether the applicant accepts and has insight into those matters;
  - whether the applicant has resolved those matters, has the willingness and ability to do so, or whether they are capable of being resolved by the applicant;
  - what other remedial or rehabilitative steps the applicant has taken;
  - what steps the applicant has taken to keep his or her professional knowledge and skills up to date.
  - Conditional restoration
15. If the Panel grants an application for restoration, it may do so unconditionally or subject to the applicant:
  - meeting any education and training requirements specified by the AHCS; and or
  - complying with any conditions recommended by the Panel.

16. The applicable education and training requirements include the requirements for 'Returning to Practise', which are primarily designed for registrants who have taken a career break; the return to practise training or supervisory period would need to be completed satisfactorily before restoration could take place.
17. The option of recommending that conditions are placed on an applicant provides flexibility; conditions can be tailored to meet the specific needs of a case, can be reviewed and, if necessary, extended. They provide the added safeguard that swift action can be taken against a registrant if there is any breach of the conditions.

### Drafting Restoration Orders

18. Where a Panel recommends to the Regulation Board that a person is restored to the Register, it must clearly set out the order which it has made, so that the Registrar can amend or annotate the Register appropriately. Any such order should also provide for payment of the prescribed restoration fee. For example:

#### ORDER:

The Registrar is directed to restore [applicant name] (the Applicant) to the accredited AHCS [relevant Register name] Register, but such restoration shall only be made upon the Applicant:

- paying the prescribed restoration fee. [and if applicable]
- meeting the specified education and training requirements; [set out the requirements]. and or
- complying with the following conditions; [set out the conditions].

The Registrar shall annotate the Register to show that, for a period of [insert time] from the date this Order takes effect (the Operative Date), [applicant name] must comply with the conditions.

### Notice of decision

19. The Registrar shall notify the applicant for restoration to the Register of the Regulation Board's decision and the reasons for reaching that decision in writing within 7 working days.