

Interim orders after a sanction is imposed

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When the Committee announces its decision on a sanction, any interim order will normally lapse. The exception is if the professional is the subject of multiple referrals and at least one of those referrals has not yet been finally adjudicated. In that case, the interim order will not lapse and we will list a review of the interim order to allow the change in circumstances to be considered.

Sanctions cannot take effect until the end of the appeal period. This is 28 days after the date on which the decision letter is served, or, if an appeal has been lodged, when the appeal is finally determined.¹ This is because the sanction imposed may be overturned on appeal.

In some cases the Committee may impose a sanction that restricts the registrant's practice (that is, not a caution) and consider that there is also a risk to the public during the appeal period. In these cases it has the power to impose an interim order for up to 18 months to cover the appeal period.

An interim order cannot last for longer than 18 months unless the Court extends the order. A professional can ask for the Committee to review the interim order at any time if new evidence has become available which is relevant to the order.² We can also ask the Committee to review the order if we think a review is needed. If we consider that the appeal process may take longer than 18 months we will apply to the Court for an extension. If the High Court remits the matter back to the Committee, the Investigating Committee would need to decide whether to impose a new interim order until the matter can be heard again.

When deciding whether to impose an interim order the Committee must apply the usual test. This is that it must be satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the professional. The decision to make an order after a sanction has been passed involves discretion and careful consideration; it is not an automatic decision in every case.

The Committee should consider the findings it has just made in the substantive decision, and specifically the risks to the protection of the public. If the panel has imposed its sanction due to a risk to public safety if the professional continued to practise, then it is very likely that an interim order will be necessary. This is because the final order will not protect the public until it is actually in force. However, if there is no risk to public safety and the sanction has purely been imposed to maintain public confidence in the profession or to uphold professional standards, then an interim order may not be necessary. This is because the fact that a final order has been imposed, even if it is not yet in force, can still reduce the risk to public confidence in the profession or to upholding professional standards.

Example:

A midwife has received a striking off order after being convicted for causing Grievous Bodily Harm and receiving a custodial sentence. The offence did not take place in a work setting and had no connection to her practice. The Committee decides not to impose an interim order, because the midwife is unable to practise while in prison. While public confidence in the profession would be put at risk if she remained on the register, it does not require an interim order while she remains in prison.

¹ Article 29(11) of the Nursing and Midwifery Order 2001
² Article 31(6)(b) of the Nursing and Midwifery Order 2001