Taken from the Law Commission's recommendations for the draft Bill:
http://lawcommission.justice.gov.uk/docs/lc345_regulation_of_healthcare_professionals.pdf

We are disappointed by the following recommendations:

RULES OF EVIDENCE
9.52
Most regulators apply the civil rules of evidence to fitness to practise hearings, whereby a panel cannot admit evidence that would not be admissible in civil proceedings, but some use the criminal rules. The relevant civil or criminal rules are those that apply in the part of the UK in which the hearing takes place. However, the strict rules of evidence do not apply to fitness to practise hearings and panels are given discretion to admit a wide range of evidence. For instance, some panels may admit any evidence they consider to be "fair and relevant" to the case before them – or on the basis of public protection – whether or not such evidence would be admissible in a court of law.
9.53
The consultation paper proposed that all the regulators should be required to apply the relevant civil rules of evidence, and that panels should be able to admit evidence which would not be admissible in court proceedings if the admission of such evidence is fair and relevant to the case.

Consultation responses
9.54
There was widespread support for these proposals at consultation. Almost all consultees referred to the benefits of armonisation on this issue. It was recognised that most of the regulators already use the civil rules and that fitness to practise proceedings are essentially civil in nature. However, a small number argued in favour of the criminal rules. It was suggested that most of the relevant case law in this field is based on criminal jurisprudence and that the significant sanctions available to panels justified the use of the criminal rules.

Discussion
9.55
It is important to recognise that fitness to practise panels are granted flexibility in determining issues of admissibility based on the concepts of relevance and fairness, with the civil or criminal rules of evidence deployed as guidance. However, we think that the set of rules taken as the starting point should be consistent across all of the regulators, and should be the civil rules. Only three of the regulators, all of whom supported our proposal, currently apply the criminal rules of evidence.
The courts have confirmed that disciplinary hearings are civil in character, although there are differences between civil proceedings and fitness to practise proceedings.
We also continue to think that the relevant civil rules should be those that apply in the part of the UK in which the hearing takes place.
9.56
The existing provisions which enable panels to admit evidence which would not be admissible in court proceedings appear to be a useful way of ensuring that appropriate evidence can be admitted. At consultation, there was a variety of suggestions about the precise terminology that should be adopted. Having reviewed these suggestions we have decided to include the tests of relevance and fairness which are relatively straightforward and easy to understand, and subsume most of the additional criteria used by some of the regulators (for example, the public protection test).
9.57
This recommendation also applies to interim order, restoration and registration appeal hearings. Recommendation 80: Fitness to practise panels should not admit evidence that would not be admissible in civil proceedings in the UK country where the hearing takes place, unless such evidence is relevant and it is fair to admit it.
This recommendation is given effect by clauses 83(2), 173(2) and 184(1) of the draft Bill.

STANDARD OF PROOF
9.58
All of the regulators apply the civil standard of proof, on the balance of probabilities, to fitness to practise hearings. This is either stated in the regulator's rules or required by virtue of section 60A of the Health Act 1999. The consultation paper proposed that the civil standard should be stated in the new statute.

Consultation responses
9.59
The vast majority agreed with this proposal. It was accepted that the civil standard was appropriate in the context of professionals regulation and that there had been no reported difficulties with the move from the criminal standard. However, a small number argued that the civil standard is prejudicial towards registrants and argued for the criminal standard, or suggested that a sliding scale should be adopted in line with the degree of seriousness of the matter under consideration.

Discussion
9.60
Consultation has confirmed our view that the draft Bill should retain the civil standard of proof in fitness to practise hearings. This standard would apply only to findings of fact. Whether those facts amount to one of the statutory grounds and constitute impairment is not a matter which needs to be proved but is a matter of judgment for the panel.

Case law has confirmed that there is no flexible civil standard of proof and the seriousness of the allegation has no special significance.

We also think that the standard should be applied to interim order, restoration and registration appeal hearings.

9.61 It was argued by some that the sanctions imposed by the regulators can be so devastating to an individual registrant's livelihood and reputation that the criminal standard of proof must apply. We think this would set the threshold too high and could

lead to a situation where a registrant survived a challenge to continued registration, but was not regarded as someone who, for example, the NHS could safely employ to look after patients. It is not acceptable that a registrant who is more likely than not to be a danger to the public should be allowed to continue practising because a panel is not certain that he or she is such a danger.

9.62
This recommendation also applies to restoration and registration appeal hearings.
Recommendation 81: The civil standard of proof should apply to all fitness to practise hearings.
This recommendation is given effect by clauses 83(1) and 173(1) of the draft Bill

We are interested to read the following recommendation:

Recommendation 58: An allegation should not proceed if it is received more than five years since the most recent events giving rise to the allegation, except where the allegation relates to certain convictions, determinations by other regulatory bodies, inclusion on a barred list or where the regulator considers that it is in the public interest for the case to proceed.
This recommendation is given effect by clauses 123(1)(a) and 123(4) of the draft Bill.

The incident was in Iraq in 2003. Phil Shiner of Public Interest Lawyers reported Dr Derek Keilloh to the GMC in 2007 for Fitness to Practise, the hearing commenced in 2012 after the Public Inquiry which did not accuse him of malpractice. For the intervening 9 years he was not erased from the register and practised without a single criticism or complaint, from 2005 as an NHS GP.