

THE GENERAL
OSTEOPATHIC COUNCIL
PROFESSIONAL
CONDUCT COMMITTEE
(PROCEDURE) RULES 2000

PART II

INITIAL CONSIDERATIONS

Frequency of meetings

3. The Committee shall meet not less than three times a year on such days as it shall determine provided always that there is business to discharge.

Action following referral

4. On a referral to the Committee by the Investigating Committee, or by the Health Committee, the Committee shall request the Solicitor to review the evidence assembled by the referring committee and formulate a written statement setting out the allegations against the osteopath.

5. The Chairman shall select from amongst the full membership of the Committee, having due regard to the need for a quorum and to the requirements of paragraph 24(2) of the Schedule to the Act, a panel of the Committee to sit with him to hear the case, and at least one member of that panel shall be a lay member of the Committee.

6. No person shall be eligible to sit on a panel hearing a given case if—

- (a) he has personal knowledge of the facts of the case or of the complainant or the osteopath which could be considered prejudicial to a fair hearing; or
- (b) there would be a conflict of interest.

Notice to the osteopath concerned

7. On referral of a case the Committee shall—

- (a) serve on the osteopath concerned a copy of the complaint that has been formulated, any document or statement on which the Committee will be asked to rely, and a copy of these Rules; and
- (b) notify the osteopath of his opportunity to put his case at a hearing if—
 - (i) before the end of the period of 28 days beginning with the date on which the complaint is sent to him he asks for a hearing; or
 - (ii) the Committee considers that a hearing is desirable; and
- (c) notify the osteopath of his right to be legally represented at the hearing.

8. Without prejudice to rule 7, after referral of a case and after reviewing the evidence assembled by the referring committee and any material submitted by the osteopath concerned, the Committee, in any case where it considers it appropriate to do so, shall—

- (a) invite the osteopath to indicate whether he accepts the facts set out in the complaint and, if so, whether he accepts that those facts amount to either unacceptable professional conduct or professional incompetence or that he has been convicted of the criminal offence or offences referred to in the complaint as the case may be;

Status: This is the original version (as it was originally made).

- (b) indicate to him that in that event the Committee would be minded to conclude that the complaint should be dealt with by way of an admonishment without any need for a hearing unless the osteopath otherwise requests; and
- (c) advise the osteopath that if he does not accept the facts set out in the complaint, or he accepts some or all of these facts but denies that the facts which are so accepted amount to either unacceptable professional conduct or professional incompetence, he has the right (in accordance with rule 7(b)(i)) to appear before the Committee to argue his case and to be legally represented at such a hearing.

9. Subject to rule 10, the Committee shall send notice of the date, time and place of a hearing to the osteopath before the beginning of the period of 28 days ending with the date on which the hearing is to be held.

10. No hearing shall be fixed for a date which occurs before the end of the period of 28 days beginning with the day on which the notice of hearing is sent except with the agreement of the osteopath on his receipt of the material specified at rule 7(a).

Representation

11. The osteopath shall have the right to be legally represented at any hearing to consider the allegations against him.

Witnesses

12.—(1) The Committee may hear witnesses called by the Solicitor and by or on behalf of the osteopath.

(2) Both the Council and the osteopath shall send to the Registrar and each other notice of the names of the witnesses to be called before the beginning of the period of seven days ending with the date set for the hearing failing which such witnesses may not be called unless the Committee otherwise gives leave.

Additional evidence

13.—(1) If any party to the proceedings wishes to rely at the hearing upon documentary evidence which has not previously been supplied to the Committee he shall forward copies of such documents to the Committee before the beginning of the period of four days ending with the date on which the hearing is to be held.

(2) The Committee shall send copies of such evidence to all other parties to the hearing before the beginning of the period of four days ending with the date on which the hearing is to be held, and any such evidence not forwarded as above shall only be admitted with the leave of the Committee.

Access to documents

14.—(1) Without prejudice to other rules herein, the Committee shall request the Solicitor to produce to the osteopath at the osteopath's request—

- (a) copies of any statement, explanation, admission or other document sent to the Council by any person in connection with the proceedings against the osteopath; and
- (b) copies of statements in the possession of the Solicitor or the Council from persons who may be called to give evidence at the hearing, other than any medical evidence of fitness to practise.

(2) The Solicitor shall not be requested to produce any written advice or other document or communication sent by himself to the Council or one of its Committees.

Notice to produce documents

15.—(1) Any party may at any time give another party notice to produce any document relevant to the inquiry alleged to be in the possession of that party.

(2) Upon request the Committee may, subject to section 26(3) of the Act, require the production of any document to the Registrar at any time before the beginning of any hearing if satisfied that the document is material and that a request for it to be produced voluntarily has not been complied with.

Legal assessor

16. A legal assessor shall be selected by the Chairman for any hearing from the list of those appointed by the Council to assist the Committee under section 27 of the Act.

Openness of hearings

17.—(1) Except as provided in paragraph (2) the proceedings of the Committee shall be held in public.

(2) The Committee may decide that it is in the interests of the complainant, or of any person giving evidence, or of any patient, to hold the hearing or any part of it in private and, in such a case, all persons who are not concerned with the hearing shall withdraw.

(3) In paragraph (2) a person is not concerned with the hearing unless he is—

- (a) a member of the Committee or a legal or medical assessor;
- (b) the osteopath or his representative;
- (c) the solicitor or his representative;
- (d) an officer or member of the Council;
- (e) a person giving oral evidence to the Committee;
- (f) a person given leave by the Chairman to remain at the hearing.

Postponement of hearing

18.—(1) The Chairman may postpone the hearing to such later date or such later meeting of the Committee as he may determine.

(2) The Committee shall send to all parties, to whom the notice of hearing had been sent, notification of the decision to postpone, and of any subsequent date, time and place fixed for the postponed hearing, which shall not take place before the end of the period of 14 days beginning with the day on which notification is given.

Cancellation of hearing

19.—(1) Where after a complaint has been referred to the Committee for consideration it appears to the Committee that such consideration cannot due to exceptional circumstances properly take place, it may, after taking advice from the legal assessor and after consulting the Investigating Committee and obtaining the consent of the osteopath concerned, direct that a hearing should not be held and that the case should be concluded, provided that where there is an individual complainant the Committee shall, before it consults the Investigating Committee, endeavour to ascertain the views of the complainant.

(2) The Committee shall not be required to obtain the consent of the osteopath under paragraph (1) above where such consent could not properly be obtained due to death, mental or physical incapacity.

(3) As soon as any decision is reached as to cancellation of a hearing, the Committee shall send notice of that decision to the osteopath and to the complainant if any.