

## SCHEDULE

### THE GENERAL CHIROPRACTIC COUNCIL (HEALTH COMMITTEE) RULES 2000

The General Chiropractic Council, in exercise of its powers under sections 26 and 35(2) of, and paragraph 21 of Schedule 1 to, the Chiropractors Act 1994<sup>(1)</sup>, and of all other powers enabling it in that behalf, hereby makes the following Rules:—

## PART I

### *Preliminary*

#### **Citation and commencement**

1. These Rules may be cited as the General Chiropractic Council (Health Committee) Rules 2000, and shall come into force on 11th December 2000.

#### **Interpretation**

2. In these Rules—

“the Act” means the Chiropractors Act 1994;

“allegation” means an allegation falling within section 20(1) of the Act;

“the Committee” means the Health Committee;

“the Council” means the General Chiropractic Council;

“the legal assessor” means a legal assessor appointed under section 27 of the Act and nominated by the Registrar under Rule 6(4);

“the medical assessors” means any medical assessors appointed under section 28 of the Act and nominated by the Registrar under Rule 6(4);

“party” means the respondent or the Solicitor, and references to “the parties” shall be construed accordingly;

“the respondent” means the chiropractor to whom an allegation under consideration by the Committee relates; and

“the Solicitor” means a solicitor appointed by the Registrar for the purposes of presenting the case for the allegation to a hearing held by the Committee.

## PART II

### *Notice and decision as to manner of proceeding on allegations*

#### **Notice of allegation etc.**

3.—(1) Where an allegation has been referred to the Committee under section 20 of the Act or by the Professional Conduct Committee by virtue of rules under section 26(2)(a) of the Act, the Committee shall meet as soon as practicable thereafter to consider whether in its view a hearing is desirable to deal with the allegation, for which purpose it shall consider the nature of the allegation and any observations (or admissions) given by the respondent to the Investigating Committee and, in

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(1) 1994 c. 17.

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the case of a reference from the Professional Conduct Committee, any evidence given or submissions made to that Committee.

(2) As soon as practicable after that meeting, the Registrar shall give notice to the respondent, specifying the allegation formulated by the Investigating Committee which has been referred to the Committee and—

- (a) if the Committee has determined to hold a hearing, notifying the date, time and place of the meeting of the Committee which will consider the allegation by way of a hearing; or
- (b) if the Committee has not so determined, requiring the respondent, if he wishes to have the allegation considered at a hearing, to notify the Registrar in writing to that effect before the end of the period of 28 days beginning with the day on which that notice was sent to him.

(3) If the respondent notifies the Registrar under paragraph (2)(b) within the period there mentioned of his wish to have the allegation considered at a hearing, the Registrar shall give a further notice to the respondent notifying him of the date, time and place of the meeting of the Committee which will consider the allegation by way of a hearing.

(4) If the Committee has not determined under paragraph (1) that a hearing is desirable and the respondent has not requested a hearing pursuant to paragraph (2)(b), but the Committee reaches the view during its investigations and deliberations that the matter should nonetheless be the subject of a hearing, it may then require one, and the Registrar shall in that event give notice to the respondent notifying him of the date, time and place of the meeting of the Committee which will consider the allegation by way of a hearing.

(5) A notice given pursuant to paragraph (2)(a), (3) or (4) shall be served before the beginning of the period of 42 days ending with the date of the meeting of the Committee which will consider the allegation by way of a hearing, and shall specify the requirement of Rule 8(3) for the respondent to provide the list, statement and notice there mentioned.

(6) When the Registrar gives notice to the respondent pursuant to paragraph (2)(a), (3) or (4), he shall also notify the person making the allegation concerned of the date, time and place of the meeting of the Committee which will consider the allegation by way of a hearing.

(7) Where a notice given to the respondent under paragraph (2)(b) is served by being left at such an address or place as is mentioned in Rule 21(1) instead of being sent there by post, the reference in paragraph (2)(b) to the day on which that notice was sent to him shall be construed as reference to the day on which it was so left.

### **Postponement**

4.—(1) The Chairman of the Committee (or, in the event of his being unavailable or there being no such Chairman in office, the Registrar) may, of his own motion or on the application of a party to the proceedings, postpone a hearing of which notice has been given pursuant to Rule 3(2)(a), (3) or (4) before the hearing begins.

(2) If the hearing is so postponed the Registrar shall, as soon as practicable, give notice to the parties concerned of the postponement and of the further date, time and place of the meeting of the Committee at which the allegation will be considered by way of a hearing; and the Registrar shall also notify the person making the allegation of that date, time and place.

## PART III

### *Procedure at hearing on allegation*

#### **Application of Part III**

5. This Part applies in any case where the respondent requires a hearing in accordance with Rule 3(2)(b) or the Committee determines under Rule 3 that an allegation should be the subject of a hearing.

#### **Preliminary matters**

6.—(1) The Solicitor shall so far as practicable cause to be prepared such further reports (if any) from appropriately qualified medical practitioners, in addition to any report which may have been prepared under Rule 4(3) of the General Chiropractic Council (Investigating Committee) Rules 2000(2), as in his opinion are necessary for the purpose of presenting proper and sufficient evidence as to the physical or mental condition of the respondent to enable determination by the Committee of the allegation.

(2) For the purpose of so doing, the Solicitor may request the respondent to attend for examination by any such practitioner, and may if he thinks it appropriate request the respondent to agree to a report being prepared for the Solicitor by the respondent's own medical practitioner.

(3) As soon as practicable after receiving any report prepared under this Rule, the Solicitor shall provide the respondent with a copy.

(4) Before the opening of the hearing, the Registrar shall nominate one or more medical assessors and a legal assessor to provide advice to the Committee in considering the allegation, and the Registrar shall secure that any such assessors are provided before the hearing with a copy of the allegation as formulated by the Investigating Committee.

#### **Procedure at meeting considering the allegation**

7.—(1) If the respondent does not appear the Committee shall call upon the Solicitor to produce evidence that notice has been given to the respondent in accordance with Rules 3(2)(a), (3) or (4) or 4(2) (as the case may be); and if the Committee is satisfied that it was so given, it may determine that proceedings on the allegation shall be heard and determined in the absence of the respondent.

(2) At the opening of the hearing, the allegation shall be read out by the Solicitor.

(3) The order of proceedings shall be as follows—

- (a) the Solicitor shall open the case for the allegation, and shall call or produce evidence in support of the allegation;
- (b) the respondent shall present his case and may call or produce evidence; and
- (c) the Committee shall hear such further submissions from the parties and receive such further evidence as it considers relevant, having regard to the justice of the case and the public interest (and to the requirements of subsection (9) of section 23 of the Act in respect of its exercise of its powers under subsection (2) of that section).

(4) Any witness called to give oral evidence may be cross-examined and re-examined, and may be questioned by the Committee and (with the leave of the Committee) by the legal assessor and the medical assessors.

(5) If it appears to the Committee that the particulars of an allegation as formulated by the Investigating Committee should be amended and that the amendment can be made without injustice,

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(2) Scheduled to S.I.2000/2916.

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it may, after hearing the parties and consulting the legal assessor, amend the particulars to such extent as appears to the Committee to be necessary or desirable.

### **Documents and evidence**

**8.—(1)** Subject to the following provisions of this Rule, the Committee may consider the allegation on the basis of any of the following reports, written statements and documents submitted in evidence to it without the authors being called to give oral evidence, that is to say—

- (a) reports, written statements and other documents prepared or procured for the purposes of section 20(9)(b) of the Act or Rule 6(1) or (2), including any report prepared under Rule 4(3) of the General Chiropractic Council (Investigating Committee) Rules 2000;
- (b) reports, written statements and other documents prepared on behalf of the respondent;
- (c) such other reports, written statements and documents as the Committee determines after hearing the views of the parties, and having regard to all the circumstances and the justice of the case, can properly be admitted without such oral evidence.

(2) The Solicitor shall secure that not less than 28 days before the opening of any hearing, the respondent is provided with a list of every report, written statement or other document under paragraph (1)(a) which is to be produced in evidence, a statement as to which (if any) of those he intends to have adduced by way of oral evidence by its author, and a notice requiring the respondent to notify him before the end of the period of 14 days beginning with the day on which that notice was sent to the respondent whether the respondent requires any other author of a report, statement or other document so listed to attend the hearing to give oral evidence as to the matters with which it deals.

(3) The respondent shall secure that not less than 28 days before the opening of any hearing, the Solicitor is provided with a list of every report, written statement or other document under paragraph (1)(b) which is to be produced in evidence, a statement as to which (if any) of those he intends to have adduced by way of oral evidence by its author, and a notice requiring the Solicitor to notify him before the end of the period of 14 days beginning with the day on which that notice was sent to the Solicitor whether the Solicitor requires any other author of a report, statement or other document so listed to attend the hearing to give oral evidence as to the matters with which it deals.

(4) Any list provided by a party under paragraph (2) or (3) shall be accompanied by a copy of any report, statement or document listed of which the other party has not previously been sent a copy.

(5) The Solicitor and the respondent shall, as soon as practicable after supplying the other with the list referred to in paragraphs (2) and (3), send to the Registrar three copies of the list and of the reports, statements and documents referred to in it (other than any report prepared under Rule 4(3) of the General Chiropractic Council (Investigating Committee) Rules 2000); and the Registrar shall secure that the legal assessor, the medical assessors and members of the Committee are provided with a copy of the same, together with a copy of any report prepared under the said Rule 4(3).

(6) Where notification is given by the respondent under paragraph (2) or by the Solicitor under paragraph (3) requiring the author of a report, statement or other document to attend to give oral evidence, the report, statement or other document shall not be taken into account by the Committee in reaching its decision on the allegation without such oral evidence unless the Committee is of the view that, having regard to all the circumstances (including the difficulty or expense of obtaining such attendance) and the justice of the case, it is proper so to do.

(7) The Committee may require a witness to appear before it and give evidence—

- (a) on the application of the respondent (and notwithstanding the absence of any notification by the respondent under paragraph (2)),
- (b) on the application of the Solicitor (and notwithstanding the absence of any notification by the Solicitor under paragraph (3)), or
- (c) of its own motion;

and the Committee may require a person to attend before it to produce documents.

(8) The Committee may administer oaths.

(9) A party may admit a fact, and a fact so admitted may be received in evidence without further proof.

(10) No person may be required to give any evidence or produce any document or other material under these Rules which he could not be compelled to give or produce in civil proceedings in any court in that part of the United Kingdom in which the hearing takes place.

(11) The posting or leaving of a notice under Rule 21(1) for the purposes of Rules 3(2), (3) or (4), 4 or 10(4) may be proved by a certificate in writing purporting to be signed by the person posting or leaving it, to which there shall be annexed (in the case of posting) any confirmation of the posting issued by or on behalf of the Post Office or other postal operator.

### **Hearing to be in private**

9.—(1) Subject to paragraph (2), the hearing shall take place in private save for the parties or their representatives, the legal assessor, the medical assessors, the person making the allegation, any witnesses, any staff of the Council and any note-taker; but the Committee may if it thinks fit at any time exclude the person making the allegation if it considers that the evidence in question relates to matters properly to be treated as confidential between the respondent and a medical practitioner.

(2) The Committee may, if satisfied that it would be appropriate that the hearing or any part of it should be held in public, hold the hearing or that part of it in public.

(3) The Committee may deliberate together in the absence of any of the persons mentioned in paragraph (1) (including the parties and their representatives) and of the public at any time.

(4) Paragraph (3) is without prejudice to Rule 3(2) of the General Chiropractic Council (Functions of Medical Assessors) Rules 2000(3) in relation to the receiving of advice from the medical assessors, but has effect subject to Rule 3(2) and (3) of the General Chiropractic Council (Functions of Legal Assessors) Rules 2000(4) where the Committee receives the advice of the legal assessor.

### **Adjournment of hearing**

10.—(1) The Committee may adjourn the hearing from time to time as it thinks fit.

(2) The Committee may in particular adjourn any hearing after it has determined that an allegation is well founded for the purposes of allowing time to deliberate on the terms of any conditions of practice order that it is minded to make.

(3) Unless adjourned proceedings are to resume (so far as they are to be in the presence of the parties) at a time, date or place not determined at the time of adjournment, upon adjourning the Committee shall announce the time, date and place of the resumption of proceedings which are to be in the presence of the parties.

(4) If an adjournment of proceedings which are to be in the presence of the parties is to a time, date or place not determined at the time of adjournment, the Registrar shall secure that reasonable notice is given to the parties of the time, date or place of the resumption; and the Registrar shall also notify the person making the allegation of that time, date and place.

(5) If, on a hearing resuming after adjournment, a party who was present in the earlier proceedings is absent, the Committee may proceed in that party's absence if it is satisfied that the time, date and place of the resumption were announced under paragraph (3) or notice under paragraph (4) was duly given to the party.

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(3) Scheduled to S.I. 2000/2866.

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### **Representation**

11.—(1) At any hearing the respondent shall be entitled to be legally represented.

(2) The Solicitor may, with the approval of the Registrar, instruct Counsel to present the case for the allegation.

### **Scope of the proceedings**

12. The Committee may consider and determine at the same hearing more than one allegation against the respondent.

### **Notification of person making allegation**

13. Any notification of the person making the allegation under Rules 3(6), 4(2) or 10(4) may be sent pursuant to Rule 21(2) to such address of that person as the Registrar considers appropriate; but any failure or delay in the delivery of a notification so posted shall not invalidate, or in any way prejudice the standing of, any proceedings under this Part.

## **PART IV**

### *Review of conditions of practice and suspension orders*

#### **Application of Part IV and interpretation**

14.—(1) This Part applies where the Committee proposes to exercise its powers under section 23(4) or (5) of the Act or an application is made under section 23(6) of the Act.

(2) In this Part, “the relevant chiropractor” means the chiropractor in respect of whom the Committee is proposing to exercise its powers under section 23(4) or (5) of the Act or (as the case may be) the chiropractor making the application under section 23(6) of the Act.

#### **Preliminary matters and right of appearance**

15.—(1) For the purpose of determining whether to exercise such powers and the steps to be taken under section 23(4), (5) or (6) of the Act, the Committee may make such inquiry, receive such statements and evidence and procure the production of such expert or other reports, as it thinks desirable, and in particular may request the relevant chiropractor to attend an examination by an appropriately qualified medical practitioner.

(2) Before determining any steps to be taken under section 23(4) or (5) of the Act in consequence of such inquiry, the Committee shall by notice given by the Registrar to the relevant chiropractor—

- (a) indicate which of the heads of paragraphs (a) and (b) of section 23(4) or (as the case may be) paragraphs (a) to (c) of section 23(5) are those under which it is proposing to act,
- (b) request the chiropractor to notify the Registrar in writing, before the end of the period of 28 days beginning with the day on which that notice was served on him, whether he wishes to appear before the Committee pursuant to section 23(9) of the Act; and
- (c) request the relevant chiropractor, if he does not wish so to appear, to make within that period any representations in writing to the Committee concerning the matter.

(3) Before determining the steps to be taken under section 23(6) of the Act in consequence of an application by the relevant chiropractor, the Committee shall by notice given by the Registrar to the relevant chiropractor—

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- (a) request the chiropractor to notify the Registrar in writing, before the end of the period of 28 days beginning with the day on which that notice was served on him, whether he wishes to appear before the Committee pursuant to section 23(9) of the Act, and
  - (b) request the relevant chiropractor to make within that period a statement in writing in support of the application, and to provide with the statement any reports or other documents which he wishes the Committee to take into account.
- (4) If the relevant chiropractor indicates within the period mentioned in paragraph (2)(b) or (3) (a) that he wishes so to appear, the Registrar shall give notice to him specifying the date, time and place of the meeting of the Committee at which he is to appear.
- (5) Subject to Rule 16(9), the Registrar shall send with a notice given under paragraph (2) copies of any reports, statements or other documents which the Committee has considered and which in the view of the Committee are material to the issue.
- (6) The Chairman of the Committee (or in the event of his being unavailable or there being no such Chairman in office, the Registrar) may, whether of his own motion or on the application of the relevant chiropractor, postpone any meeting of which notice has been given under Rule 15(4), in which event the Registrar shall give a further notice specifying the date and time to which the meeting at which he is to appear has been postponed, and the place of the meeting.

### **Manner of proceeding**

- 16.**—(1) The Committee may by notice given by the Registrar request the relevant chiropractor to attend before the Committee even if that chiropractor has not requested so to appear under Rule 15.
- (2) In determining the steps to be taken under section 23(4), (5) or (6) of the Act, the Committee shall not take into account any evidence or other matters relating to issues of fact unless the relevant chiropractor has been given an opportunity to consider and comment on the evidence or other matter, by the Registrar providing him with the documents referred to in Rule 15(5) and with any other material documents which have been procured by the Committee for the purposes of this Part, and (if the relevant chiropractor has not indicated within the period mentioned in sub-paragraph (b) of Rule 15(2) or sub-paragraph (a) of Rule 15(3) that he wishes to appear before the Committee and he does not appear under paragraph (1) above) by the Committee giving him an opportunity to make representations in writing to it before the expiry of the period mentioned in the said sub-paragraph (b) or (a) or (if later) before the expiry of the period of 14 days beginning with the day on which such documents were served on him.
- (3) At any appearance before the Committee under this Part, the relevant chiropractor may be legally represented.
- (4) At any such appearance, the relevant chiropractor may give evidence and call witnesses, and he and such witnesses may be questioned by the Committee.
- (5) Where the relevant chiropractor is to appear before the Committee, he may, at the time that he notifies the Registrar under Rule 15 that he wishes to appear or (if later) before the expiry of the period of 14 days beginning with the day on which a copy of any report or statement was served on him, request the Committee in writing that the author of any report or statement of which he has been sent a copy under Rule 15(5) or paragraph (2) above should appear before the Committee to adduce the report or statement by way of oral evidence and to be questioned by the relevant chiropractor; and if he makes such a request the report or statement shall not be taken into account by the Committee without such appearance by the author unless the Committee is of the view that, having regard to all the circumstances (including the difficulty or expense of obtaining such attendance) and the justice of the case, it is proper so to do.
- (6) The Committee may arrange for the attendance of the author of any report or statement of which the relevant chiropractor has been sent a copy under Rule 15(5) or paragraph (2) above, even if no request is made by the relevant chiropractor under paragraph (5), in order that the author may

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be questioned by the Committee, and if it does so and the relevant chiropractor has elected to appear before the Committee pursuant to section 23(9) of the Act, the author may also be questioned by him.

(7) The Committee may from time to time adjourn any proceedings before it at which the relevant chiropractor is to be present, whether to enable attendance of the author of a report or statement under paragraph (5) or (6) or for any other reason; and the relevant chiropractor shall be given reasonable notice by the Registrar of the date, time and place of the resumption of such adjourned proceedings at which he is to be present unless they were announced at the time of adjournment and the relevant chiropractor or his legal representative were then present.

(8) The reports, statements and other documents of which copies must be provided under Rule 15(5) or paragraph (2) above do not include reports, statements and documents of which the relevant chiropractor has already received copies in connection with proceedings under Part III of these Rules or under Rule 17 or which were procured or provided by or on behalf of the relevant chiropractor.

(9) The Committee shall take the advice of a medical assessor appointed under section 28 of the Act to such extent as the Committee thinks is necessary or desirable in discharging its functions under this Part, and it may take the advice of a legal assessor appointed under section 27 of the Act; and it shall secure unless otherwise agreed by the relevant chiropractor or his representative that such a medical assessor and legal assessor are present at any appearance of the relevant chiropractor before the Committee, and any medical or legal assessor may with the leave of the Committee question any witness attending before it.

(10) If the relevant chiropractor has indicated that he wishes to appear—

- (a) the proceedings connected with his appearance shall be in private (save for the relevant chiropractor and his representative, the Registrar, any legal assessor or medical assessor, the person making the allegation to which the conditions of practice order or suspension order in question relates, any witnesses, any staff of the Council and any note-taker), unless the Committee is satisfied that it would be appropriate that the proceedings or any part of them be held in public;
- (b) nothing in this Part shall preclude the Committee deliberating together in the absence of any of the persons mentioned in sub-paragraph (a) (including the relevant chiropractor and any representative) and of the public at any time; and
- (c) if the relevant chiropractor does not appear and the Committee is satisfied that notice has been given to him under Rule 15(4) or (in the case of an adjournment) notice has been given under paragraph (7) or the announcement referred to in that paragraph was made, it may proceed in his absence.

## PART V

### *General*

#### **Procedure on allegations where there is no hearing**

**17.—**(1) This Rule applies where the respondent to an allegation does not require a hearing in accordance with Rule 3(2)(b) and the Committee does not determine under Rule 3 that the allegation should be the subject of a hearing.

(2) The Committee shall not, in considering the allegation and determining the steps to be taken under section 23(2) of the Act, take into account any evidence or other matters relating to issues of fact unless the respondent and the person making the allegation have been given an opportunity to consider and comment on the evidence or other matter.

(3) Subject to paragraph (2), in considering the allegation and determining any step to be taken under section 23(2) of the Act, the Committee may make such inquiry in such manner as it thinks fair



and proper; but it shall afford the respondent the opportunity required by subsection (9) of section 23 of the Act in respect of its exercise of its powers under subsection (2) of that section.

### **Notification of decisions**

**18.—**(1) As soon as practicable after the Committee has made its decision on whether an allegation is well founded and as to any steps to be taken under section 23(2) of the Act, whether or not that decision was announced at the conclusion of a hearing under Part III the Committee shall, by notice given by the Registrar, notify—

- (a) the respondent of its decision and its reasons for reaching it, and (if the allegation is found to be well founded) of the respondent's right of appeal under section 30 of the Act; and
- (b) the person making the allegation of its decision and its reasons for reaching it.

(2) As soon as practicable after the Committee has determined under Part IV the steps that it is to take under section 23(4), (5) or (6) of the Act (including any decision not to take a step after application under section 23(6) of the Act) the Committee shall, by notice given by the Registrar, notify the chiropractor to whom the decision relates of its decisions and its reasons for reaching it, and (so far as relevant) of his right of appeal under section 30 of the Act.

### **Voting**

**19.—**(1) The Committee shall vote on any matter to be determined by the Committee in considering an allegation, or in deciding under Part IV the steps to be taken under section 23(4), (5) or (6) of the Act, by the Chairman of the Committee calling upon members present to signify their votes by raising their hands, and by the Chairman then announcing his own vote (followed by any casting vote as provided for in paragraphs 40(3) and (4) of Schedule 1 to the Act) and declaring to the Committee how the matter has been decided.

(2) Any member may challenge any decision so declared, in which event the Chairman shall again announce the motion, and call each member's name in turn, each member on being so called announcing his own vote, being either "yes" or "no" to the motion put, and the Chairman shall vote last, making first his ordinary vote and then (so far as relevant) any casting vote, and then declare the result.

(3) No member present may abstain.

### **Referral to Professional Conduct Committee**

**20.—**(1) If in the course of the investigation of and its deliberations on an allegation, the Committee is of the view that the allegation would be better dealt with by the Professional Conduct Committee because a substantial issue arises whether the respondent has been guilty of unacceptable professional conduct or of professional incompetence, it may refer the matter to that Committee, and the Professional Conduct Committee shall deal with the matter as if the allegation were to that effect

(2) The power under paragraph (1) may be exercised notwithstanding that a hearing under Part III has begun, provided that the Committee has not voted on its decision whether the allegation is well founded.

### **Service and giving of documents**

**21.—**(1) Any notice, document or other matter to be given to or served on a chiropractor by the Registrar under these Rules may be served by sending it by a postal service in which delivery or receipt is recorded to, or leaving it at, the address of the chiropractor as appearing in the register pursuant to section 6(1)(b) of the Act, or if his last known place of residence differs from his address in the register and it appears to the Registrar that, if the notice, document or other matter is sent to or

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left at that place of residence, it is more likely to reach him, it may be served by sending it by such a postal service to or leaving it at his last known place of residence.

(2) Any other notice, document or other matter to be given to or served on a person under these Rules may be sent by ordinary post.

(3) The address for service of the Registrar for the purposes of paragraph (2) shall be the principal office of the Council, for a chiropractor shall be any such address or place as is mentioned in paragraph (1) (treating the second reference in that paragraph to the Registrar as a reference to the person sending the matter in question) and for the Solicitor shall be the address at which he ordinarily practises, or shall be such other address as any of them may specify for the purpose.