

SCHEDULE

THE GENERAL CHIROPRACTIC COUNCIL (HEALTH COMMITTEE) RULES 2000

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(1), 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).

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

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(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, 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(2) 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(3) 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

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

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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.

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.