

2004 No. 68

DENTISTS

**The General Dental Council Continuing Professional
Development Committee (Procedure) Rules
Order of Council 2003**

Made - - - - - 31st December 2003

Coming into force - - - - - 1st January 2004

At the Council Chamber, Whitehall, the 31st day of December 2003

By the Lords of Her Majesty's Most Honourable Privy Council

Whereas, in exercise of their powers under section 34A(3) of and paragraph 2 of Schedule 3A to the Dentists Act 1984(a) and all other powers enabling them in that behalf, the General Dental Council have made the General Dental Council Continuing Professional Development Committee (Procedure) Rules 2003, as set forth in the Schedule to this Order:

And whereas by paragraph 2(4) of Schedule 3A to that Act such Rules shall not come into force until approved by order of the Privy Council:

Now, therefore, Their Lordships, having taken these Rules into consideration are pleased to, and do hereby, approve them.

This Order may be cited as the General Dental Council Continuing Professional Development Committee (Procedure) Rules Order of Council 2003 and shall come into force on 1st January 2004.

A K Galloway
Clerk of the Privy Council

(a) 1984 c. 24; Sections 34A and Schedule 3A were inserted by S.I. 2001/3926, articles 8 and 9.

SCHEDULE

THE GENERAL DENTAL COUNCIL CONTINUING PROFESSIONAL DEVELOPMENT COMMITTEE (PROCEDURE) RULES 2003

The General Dental Council, in exercise of the powers conferred upon them by section 34A(3) and paragraph 2 of Schedule 3A to the Dentists Act 1984 and all other powers enabling them in that behalf, having consulted such bodies of persons representing dentists as appeared to it requisite to be consulted pursuant to sub-paragraph 2(2) of Schedule 3A to the Act, hereby make the following Rules:

Citation, commencement and interpretation

1.—(1) These rules may be cited as The General Dental Council Continuing Professional Development Committee (Procedure) Rules 2003 and shall come into force on 1st January 2004.

(2) In these rules:

“Act” means the Dentists Act 1984;

“appeal” means an appeal against a decision of the registrar to erase a registered dentist’s name from the register under section 34A(2) of the Act or not to restore a person’s name to the register under section 34B of the Act;

“appeal hearing” means a meeting of the Committee at which the Committee is to hear an appeal;

“appellant” means the person bringing or wishing to bring an appeal;

“Committee” means the Continuing Professional Development Committee;

“give”, in relation to a notice, document or information, means send or deliver it to the addressee;

“Hearings Director” means the person serving as the secretary to the Committee;

“Legal Assessor” means the assessor required by paragraph 5(1) of Schedule 3 to the Act; and

“party to the proceedings” means the appellant or the registrar;

(3) Where, by any provision of these rules:

(a) any notice or other document is required to be given to any office, that notice or document shall be treated as having been given on the day that it is received in that office;

(b) any notice or other document is required to be given to any person, that notice or document shall, if sent by post, be treated as having been given—

(i) three days after it was posted if sent to an address in the United Kingdom,

(ii) four days after it was posted if sent to an address within the EEA, other than one to which head (i) applies, and

(iii) seven days after it was posted if sent to an address elsewhere; and

(c) any notice or other document required to be given to any person may also be effected in person.

Manner of bringing appeals

2.—(1) The appellant shall state in his notice of appeal his:

(a) full name and any former names;

(b) registration number and address in the register or last registered address;

(c) address for service of notices and other documents; and

(d) grounds of the appeal.

(2) Subject to paragraph (3), the appellant shall give with his notice of appeal a copy of:

(a) the notice given by the registrar of the decision against which the appellant wishes to appeal; and

(b) any document upon which the appellant intends to rely in the course of the appeal.

(3) Where it is not possible for the appellant to give a copy of a document upon which he intends to rely under paragraph (2)(b) with the notice of appeal, he shall:

(a) specify in the notice of appeal any document he has not yet given and the reasons he has not done so; and

(b) give to the Hearings Director any document so specified no later than 7 days after the Hearings Director gives notice of the hearing under rule 4(2).

Time limits and deficiencies in notice of appeal

3.—(1) On receipt of a notice of appeal the Hearings Director shall verify that:

(a) the notice of appeal has been received within the period required by paragraph 1 of Schedule 3A to the Act; and

(b) it complies with the requirements of these Rules.

(2) If a notice of appeal has not been received within the required period, the Hearings Director shall reject the notice of appeal and shall inform the appellant accordingly.

(3) If a notice of appeal has been received within the required period, but it does not comply with the requirements of these rules, the Hearings Director shall:

- (a) admit the notice of appeal; and
- (b) give the appellant notice in writing, specifying the matters in respect of which the notice of appeal is defective and requiring the appellant to rectify those deficiencies within the period of 14 days beginning with the date of the giving of the notice under this sub-paragraph.

(4) If the appellant fails to rectify the deficiencies in the notice of appeal as required under paragraph (3) within the required period, the Hearings Director shall strike out the appeal.

Convening of appeal hearing

4.—(1) Following receipt of a notice of appeal within the period required by paragraph 1 of Schedule 3A to the Act, which complies with the requirements of these rules (or in respect of which the appellant has rectified any deficiency as required under rule 3(3)), the Hearings Director shall convene an appeal hearing.

(2) No later than 28 days before the date of the appeal hearing the Hearings Director shall give written notice to the appellant and to the registrar of the time, date and place appointed for the hearing of the appeal, accompanied by a copy of these Rules and of Schedules 3 and 3A to the Act.

(3) No later than 7 days after the Hearings Director gives notice of the hearing under paragraph (2), the registrar shall give to the Hearings Director copies of any document upon which he intends to rely in the course of the appeal.

Documents

5. No later than 14 days before the date of the hearing the Hearings Director shall produce a paginated bundle of—

- (a) the notice of the registrar's decision against which the appellant is appealing;
- (b) the appellant's notice of appeal;
- (c) any redrafted notice served pursuant to rule 3(3);
- (d) the documents given to him by each of the parties; and

give a copy of the bundle to each of the parties and to the members of the Committee.

Directions

6.—(1) After the Hearings Director has received a valid notice of appeal, he may of his own motion, or at the request of either of the parties, if he thinks it necessary to do so, convene a meeting of the Committee ("a directions hearing") so as to enable the Committee to give directions as regards any procedural matter ancillary or preliminary to the hearing of the appeal.

(2) At a directions hearing the Committee may give such directions as regards any procedural matter ancillary or preliminary to the hearing of that appeal as it thinks just and necessary.

(3) At a directions hearing rules 7, 10, 11, 12 and 13 shall apply as they apply at the hearing of an appeal.

Waiver of right to appear

7. An appellant may elect to waive his right to appear at the hearing of his appeal, whether in person or by his representative, by giving notice to the Hearings Director, in advance of the hearing, that he will not appear or be represented, in which case the Committee may proceed to consider and determine the appeal in his absence.

Withdrawal of appeal

8. An appellant may withdraw his appeal at any time prior to the determination of the appeal, by giving notice to that effect to the Hearings Director.

Change of decision against which appeal is brought

9. If, in advance of the determination of an appeal, the registrar changes the decision against which an appeal is brought so that he decides not to:

- (a) erase the appellant's name from the register under section 34A(2) of the Act; or
- (b) refuse to restore the appellant's name to the register under section 34B of the Act,

the registrar shall so notify the appellant and the Hearings Director, who shall cancel the hearing.

Procedure at an appeal hearing

- 10.—(1) Subject to paragraph (2) of this rule, the Committee shall hear an appeal in public.
- (2) At the request of the appellant, the Committee shall direct that the public be excluded from all or part of an appeal hearing.
- (3) The parties may be accompanied at an appeal hearing and may be represented by:
- (a) counsel or solicitor;
 - (b) a professional colleague; or
 - (c) in the case of the appellant, any officer or member of any organisation of which he is a member or any member of his family.
- (4) The parties to the proceedings may:
- (a) address the Committee;
 - (b) give evidence;
 - (c) call and examine witnesses; and
 - (d) cross-examine witnesses called by the other party.
- (5) Subject to paragraph (6), the Committee may receive any evidence, whether or not it:
- (a) is oral or written;
 - (b) is direct or hearsay;
 - (c) was available to the registrar when he made the decision against which the appeal is brought; or
 - (d) would be admissible in a court of law.
- (6) The Committee may receive evidence, which has not been submitted with the notice of appeal or in accordance with sub-paragraph (b) of rule 2(3), if it is necessary in the interests of justice for it to do so.
- (7) Subject to these rules the Chairman of the Committee shall, having consulted the Legal Assessor, give such directions as to the conduct of and procedure at an appeal hearing as he considers just, provided always that the appellant shall have the right to address the Committee last.
- (8) If an appellant fails to appear or to be represented at the hearing of his appeal, the Committee may proceed to consider and determine his appeal in his absence.

Deliberations and determinations

- 11.—(1) After the presentation of evidence and submissions by the parties, the parties shall withdraw and the Committee shall deliberate in private.
- (2) Any determination required to be made by the Committee shall be made by majority vote of its members; if an equal number of votes is given in relation to any question, the question shall be deemed to have been resolved in favour of the registrar.
- (3) The Chairman shall announce the determination of the Committee and the reasons for it in the presence of the parties.
- (4) As soon as practicable after the conclusion of the proceedings, the Hearings Director shall cause a written statement of the reasons for the determination of the Committee to be given to the parties.

Adjournment

12. The Committee may adjourn any of its proceedings or meetings at any time as it thinks fit.

Transcript record

- 13.—(1) The Hearings Director shall cause a transcript record to be made of the parts of the proceedings at which the parties are entitled to be present.
- (2) The Hearings Director shall supply a copy of the transcript record to the appellant or to any other person entitled to be present at the proceedings on payment of the cost of preparing the copy.

The Common Seal of the General Dental Council was hereto affixed in the presence of



Hew Byrne Mathewson
President

Antony John Townsend
Registrar

this 4th day of December 2003

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to the General Dental Council Continuing Professional Development Committee (Procedure) Rules 2003.

The Rules provide for the procedure for appeals against a decision of the registrar of the General Dental Council—

- (a) to erase a registered dentist's name from the register for failure to comply with the Council's continuing professional development requirements made under section 34A of the Dentists Act 1984 ("the Act"); or
- (b) to refuse to restore a name to the register under section 34B of the Act on the ground that he has not met the Council's continuing professional development requirements or other requirements relevant under section 15(3)(a) to (c) of the Act.

STATUTORY INSTRUMENTS

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£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1706 1/2004 131706 19585

ISBN 0-11-048441-X



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