

SCHEDULE

THE HEALTH PROFESSIONS COUNCIL (PRACTICE COMMITTEES AND REGISTRATION) (AMENDMENT) RULES 2005

The Health Professions Council, in exercise of its powers under articles 5(2)(b), 7, 9(2), 10, 19(1) to (3), 26(3), 30(9), 32, 33 and 41(2) of, and paragraph 18 of Schedule 1 to, the Health Professions Order 2001(1) and of all other powers enabling it in that behalf and after consulting in accordance with articles 5(3)(a), 7(1) and 41(3) of that Order, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005 and shall come into force on 8th July 2005.

Interpretation

2. In these Rules—

“the Committees Constitution Rules” means the Health Professions Council (Practice Committees) (Constitution) Rules 2003(2);

“the Conduct and Competence Committee Rules” means the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003(3);

“the Health Committee Rules” means the Health Professions Council (Health Committee) (Procedure) Rules 2003(4);

“the Investigating Committee Rules” means the Health Professions Council (Investigating Committee) (Procedure) Rules 2003(5); and

“the Registration and Fees Rules” means the Health Professions Council (Registration and Fees) Rules 2003(6).

Amendments to the Committees Constitution Rules

3.—(1) In rule 2 of the Committees Constitution Rules (interpretation) omit the definition of “second transitional period”.

(2) In rule 5 of the Committees Constitution Rules (tenure), for paragraph (1) substitute—

“(1) A member of a Practice Committee shall serve—

(a) for a period of two years; or

(b) if he is also a member of the Council, until any earlier date on which he ceases to be a member of the Council.”.

(3) In rule 8 of the Committees Constitution Rules (meetings)—

(a) in paragraph (1) for “four times” substitute “twice”; and

(b) after paragraph (4) add—

“(5) A resolution may be unanimously approved in writing whether or not electronically.”.

(1) S.I.2002/254.

(2) Scheduled to S.I. 2003/1209.

(3) Scheduled to S.I. 2003/1575.

(4) Scheduled to S.I. 2003/1576.

(5) Scheduled to S.I. 2003/1574.

(6) Scheduled to S.I. 2003/1572 as amended by rules Scheduled to SI2004/2524.

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Amendments to the Investigating Committee Rules

4.—(1) In rule 2 of the Investigating Committee Rules (interpretation)—

(a) after the definition of “health professional” insert—

““legal assessor” means a person appointed in accordance with article 34(1) of the Order;”;

(b) after the definition of “the Order” insert—

““Presenting Officer” means a person appointed by—

(a) the Council to present the case on its behalf at any hearing before the Committee which relates to an allegation against a health professional; or

(b) the Registrar to represent him at any hearing before the Committee which relates to a register entry allegation against a health professional;

and may include a solicitor or counsel;; and”;

(c) omit the definition of “Solicitor”.

(2) In rule 4 of the Investigating Committee Rules (investigation of allegations), after paragraph (7) add—

“(8) The Committee may consider and determine together—

(a) two or more allegations against the same health professional; or

(b) allegations against two or more health professionals, where it would be just to do so.”.

(3) In rule 6 of the Investigating Committee Rules (register entry allegations: procedure), after paragraph (6) add—

“(7) The Committee may consider and determine together—

(a) two or more register entry allegations against the same health professional; or

(b) register entry allegations against two or more health professionals,

where it would be just to do so.”.

(4) In rule 8 of the Investigating Committee Rules (conduct of hearing)—

(a) in paragraph (1), after sub-paragraph (f), add—

“; and

(g) the Committee may exclude from the hearing any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings.”; and

(b) in paragraph (4), for “Solicitor” in each place where it occurs substitute “Presenting Officer”.

(5) After rule 8 of the Investigating Committee Rules add—

“Vulnerable witnesses

8A.—(1) In proceedings before the Committee, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

(a) any witness under the age of 17 at the time of the hearing;

(b) any witness with a mental disorder within the meaning of the Mental Health Act 1983(7);

(7) 1983 c. 20.

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- (c) any witness who is significantly impaired in relation to intelligence and social functioning;
- (d) any witness with physical disabilities who requires assistance to give evidence;
- (e) any witness, where the allegation against the health professional is of a sexual nature and the witness was the alleged victim; and
- (f) any witness who complains of intimidation.

(2) Subject to any representations from the parties and the advice of the legal assessor, the Committee may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Committee may include, but shall not be limited to—

- (a) use of video links;
- (b) use of recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for cross-examination and questioning by the Committee;
- (c) use of interpreters (including signers) or intermediaries;
- (d) use of screens or such other measures as the Committee consider necessary in the circumstances, in order to prevent—
 - (i) the identity of the witness being revealed to the press or the general public; or
 - (ii) access to the witness by the health professional; and
- (e) the hearing of evidence by the Committee in private.

(4) Where—

- (a) the allegation against a health professional is based on facts which are sexual in nature;
- (b) a witness is an alleged victim; and
- (c) the health professional is acting in person,

the health professional shall only be allowed to cross-examine the witness in person with the written consent of the witness.

(5) If in the circumstances set out in paragraph (4), a witness does not provide written consent, the health professional shall, not less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the Council shall appoint such a person on behalf of the health professional.”

Amendments to the Conduct and Competence Committee Rules and Health Committee Rules

5.—(1) In rule 2 of the Conduct and Competence Committee Rules and the Health Committee Rules (interpretation)—

- (a) after the definition of “health professional” insert—
 - ““legal assessor” means a person appointed in accordance with article 34(1) of the Order;” and
- (b) after the definition of “the Order” insert—
 - ““Presenting Officer” means a person appointed by the Council to present the case on its behalf at any hearing before the Committee which relates to an allegation against a health professional and may include a solicitor or counsel.”; and
- (c) omit the definition of “Solicitor”.

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(2) In rule 5 of the Conduct and Competence Committee Rules and the Health Committee Rules (allegations), after paragraph (3) add—

“(4) The Committee may consider and determine together—

- (a) two or more allegations against the same health professional; or
- (b) allegations against two or more health professionals,

where it would be just to do so.”.

(3) In rule 10 of the Conduct and Competence Committee Rules and the Health Committee Rules (conduct of hearing)—

(a) in paragraph (1), after sub-paragraph (f), add—

“; and

(g) the Committee may exclude from the hearing any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings.”; and

(b) in paragraph (4), for “Solicitor” in each place where it occurs substitute “Presenting Officer”.

(4) After rule 10 of the Conduct and Competence Committee Rules and the Health Committee Rules insert—

“Vulnerable witnesses

10A.—(1) In proceedings before the Committee, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

- (a) any witness under the age of 17 at the time of the hearing;
- (b) any witness with a mental disorder within the meaning of the Mental Health Act 1983⁽⁸⁾;
- (c) any witness who is significantly impaired in relation to intelligence and social functioning;
- (d) any witness with physical disabilities who requires assistance to give evidence;
- (e) any witness, where the allegation against the health professional is of a sexual nature and the witness was the alleged victim; and
- (f) any witness who complains of intimidation.

(2) Subject to any representations from the parties and the advice of the legal assessor, the Committee may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Committee may include, but shall not be limited to—

- (a) use of video links;
- (b) use of recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for cross-examination and questioning by the Committee;
- (c) use of interpreters (including signers) or intermediaries;
- (d) use of screens or such other measures as the Committee consider necessary in the circumstances, in order to prevent—
 - (i) the identity of the witness being revealed to the press or the general public; or
 - (ii) access to the witness by the health professional; and

⁽⁸⁾ 1983 c. 20.

(e) the hearing of evidence by the Committee in private.

(4) Where—

- (a) the allegation against a health professional is based on facts which are sexual in nature;
- (b) a witness is an alleged victim; and
- (c) the health professional is acting in person,

the health professional shall only be allowed to cross-examine the witness in person with the written consent of the witness.

(5) If in the circumstances set out in paragraph (4), a witness does not provide written consent, the health professional shall, not less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the Council shall appoint such a person on behalf of the health professional.”

(5) In rule 13 of the Conduct and Competence Committee Rules and the Health Committee Rules (review of orders and applications for restoration to the register), in paragraph (10) for “Solicitor” substitute “Presenting Officer”.

Amendments to the Registration and Fees Rules

6.—(1) In rule 4 of the Registration and Fees Rules (applications for registration)—

- (a) in paragraphs (1)(a) and (1A)(a), for “specified in Schedule 1” substitute “provided by the Council containing the declaration and information listed in Schedule 1”;
- (b) in paragraph (2)(a), for “specified in Schedule 3” substitute “provided by the Council containing the declaration and information listed in Schedule 3”; and
- (c) in paragraph (2)(b), for “specified in Schedule 4” substitute “provided by the Council containing the declaration and information listed in Schedule 4”.

(2) In rule 6 of the Registration and Fees Rules (prescribed periods for additional education and training requirements), after paragraph (2) add—

“(3) A person to whom article 9(2)(a)(ii) or 10(2)(c) of the Order applies shall not be admitted or re-admitted to the register or have his registration renewed unless he has—

- (a) undertaken such education or training; or
- (b) gained such experience,

as the Council may specify in standards under article 19(4)(b) of the Order and which apply to him.”.

(3) In rule 11 of the Registration and Fees Rules (renewal of registration), in paragraph (1)(a), for “for the renewal of his registration in the form specified in Schedule 2” substitute “form for the renewal of his registration which shall include the declaration and information listed in Schedule 2”.

(4) After rule 11 of the Registration and Fees Rules add—

“Continuing professional development

11A.—(1) A registrant must—

- (a) undertake continuing professional development in accordance with the standards specified by the Council under article 19(4)(a) of the Order and which apply to him; and
- (b) maintain an up to date record (including any supporting documents or other evidence) of the continuing professional development he has undertaken.

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- (2) The Committee may at any time send a notice to a registrant requiring him to—
 - (a) submit his continuing professional development record for inspection; and
 - (b) provide the Committee with such other evidence as it may reasonably require,within such time period as the Committee may specify in the notice (which shall be at least 21 days beginning with the day on which the notice was sent), for the purpose of determining whether the health professional has met the requirements of paragraph (1).
- (3) Where, from the information supplied by the registrant in accordance with paragraph (2), the Committee is not satisfied that he has complied with a requirement imposed by paragraph (1)(a) or (b), the Committee shall send the registrant a notice—
 - (a) providing a statement of the reasons why the Committee is not satisfied that the registrant has complied with the requirement; and
 - (b) inviting the registrant to submit his observations on the matter by the date specified in the notice, which shall be at least 14 days beginning with the date on which the notice was sent.
- (4) If, after considering any observations, the Committee is of the view that the registrant has not complied with a requirement imposed by paragraph (1)(a) or (b), the Committee may instruct the Registrar to remove the name of the registrant from the register.
- (5) If a registrant fails to respond to a notice sent to him by the Committee under paragraph (2) within the period specified in the notice, the Committee shall send him a further notice warning that, if he does not respond to the original notice before the end of the period of 14 days beginning with the day on which the further notice was sent, his name may be removed from the register.
- (6) If a registrant does not respond by the date specified in the notice under paragraph (2) or the further notice under paragraph (5), then the Committee may instruct the Registrar to remove the name of the registrant from the register.”.
- (5) For Schedule 1 to the Registration and Fees Rules (application form for admission to the register) substitute the Schedule set out in Schedule 1 to these Rules.
- (6) For Schedule 2 to the Registration and Fees Rules (application form for renewal of registration) substitute the Schedule set out in Schedule 2 to these Rules.
- (7) For Schedule 3 to the Registration and Fees Rules (character reference form) substitute the Schedule set out in Schedule 3 to these Rules.
- (8) For Schedule 4 to the Registration and Fees Rules (health reference form) substitute the Schedule set out in Schedule 4 to these Rules.