



**Council**  
**1 May 2014**  
**Registration Appeal Procedure**

**Classification** Public

**Purpose** For decision

**Issue** This paper invites Council to agree the revised Registration Appeals Guidelines and Procedures.

**Recommendation** To agree the terms of reference and Registration Appeals Guidelines and Procedures at the Annex to this paper.

**Financial and resourcing implications** The reduction in the number of Council members required for an Appeals Committee would help to reduce the cost of appeal hearings.

**Equality and diversity implications** None.

**Communications implications** None.

**Annex** Appeals Against Decisions of the Registrar Guidelines And Procedures

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## Background

1. Appeals against registration decisions made by the Registrar have been an infrequent feature of the GOsC's work since the conclusion of the many appeals which followed the opening of the Register. Just three appeals have been heard in the past eight years or so.
2. The procedures for such appeals are governed in the main by legislation – section 29 of the Osteopaths Act 1993 (the Act) and the General Osteopathic Council (Fraud or Error and Appeals) Rules 1999 (the Rules) – (see <http://www.legislation.gov.uk/uksi/1999/1846/contents/made>)
3. Section 29 of the Osteopaths Act 1993 gives the right for a person aggrieved at a decision of the Registrar to appeal to the General Council. Section 29(1) to (3) is set out below:

### ***“29 Appeals against decisions of the Registrar***

*(1) Where the Registrar—*

*(a) refuses to register an applicant for registration under this Act,*

*(b) registers such an applicant with provisional or conditional registration,*

*[(ba) refuses to register a person with temporary registration,]*

*(c) refuses to renew any registration,*

*(d) removes the name of a registered osteopath from the register on the ground that he has breached one or more of the conditions subject to which his registration had effect (otherwise than under an order of the Professional Conduct Committee), or*

*(e) refuses to grant an application for the conversion of a conditional, or provisional, registration in-to full registration.*

*the person aggrieved may appeal to the General Council.*

*(2) Any such appeal shall be subject to such rules as the General Council may make for the purpose of regulating appeals under this section.*

*(3) An appeal to the General Council must be made before the end of the period of 28 days beginning with the date on which notice of the Registrar's decision is sent to the person concerned...”*

4. The Rules made under section 29(2) above were the Appeals Rules, the Schedule to which sets out the procedure for determining an appeal under section 29.

5. In 1999 Council established additional procedures relating to the operation of the Appeals Committee and the procedure within hearings. These Guidelines and Procedures (Guidelines) have not been revised since their publication in 1999.
6. Neither the Act nor the Rules provides for a committee to deal with appeals, but section 1(8) of the Act provides that the Council 'may establish such other committees as it considers appropriate in connection with the discharge of its functions'. Paragraph 15(2)(i) of the Schedule to the Act provides that the Council can delegate to any of its committees any functions other than any power to make rules.
7. In 1999 the Council, under these powers, delegated to an Appeals Committee the function of hearing appeals made under s29 of the Act and making decisions in respect of those appeals. The terms of reference, quorum and appointment of the Chair the Appeals Committee were set out in Guidelines. The Guidelines also set out the procedure to be followed at a hearing, the production of documents and dealing with the press and other parties.
8. The Education and Registration Standards Committee (ERSC) was asked to consider a number of policy issues relating to registration appeals at its meeting on 14 May 2013, which included:
  - a. whether there should continue to be a separate Appeals Committee
  - b. if so, what should be its terms of reference
  - c. the quorum of the Committee
  - d. the composition of the Committee
  - e. chairing arrangements.
9. Council, at its meeting on 20 June 2013, considered the recommendations made by the ERSC, which had been incorporated into revised Guidelines and included the proposed terms of reference of the Appeals Committee. Council approved the consultation of these Guidelines.

## **Discussion**

10. A consultation on the proposed Guidelines and terms of reference of the Appeals Committee was held from November 2013 to January 2014. The consultation was available on the GOsC's public website and we notified key stakeholders, including Registrants, patients, the British Osteopathic Association, the Osteopathic Education Institutions, Professional Indemnity Insurance providers and the Osteopathic Alliance.
11. All responses to the consultation were made on-line. We received ten responses, including one from the British Osteopathic Association, which indicated:

- a. Unanimous support for the proposal that registration appeals should be considered by a Registration Appeals Committee rather than the whole Council.
  - b. Majority (9 out of 10) agreed with the proposed terms of reference for the Appeals Committee. The remaining respondent did not respond to this question.
  - c. Majority (9 out of 10) supported the proposed composition and quorum of the Appeals Committee. The respondent who did not agree thought that this consultation question was unclear.
  - d. All respondents thought that the Registrant Appeals Guidelines and Procedures contained the right level of detail.
  - e. Two respondents provided further comments. One thought that the Guidelines could indicate who bears the costs of an appeal and whether this is dependent on who is the successful party. The other comment related to the Equality and Diversity questionnaire.
12. There is no power for the Council or Appeals Committee to award costs and information has been added to the Guidelines to confirm this.
13. The Guidelines that were consulted on reflected the recommendations made by the ERSC, which were considered by Council in May 2013. The consultation responses indicate majority or unanimous support for the proposed procedures and the Guidelines. Council is, therefore, asked to approve the terms of reference and Registration Appeals Guidelines and Procedures at the Annex.

**Recommendation:** to agree the terms of reference and Registration Appeals Guidelines and Procedures at the Annex to this paper.

**General Osteopathic Council**  
**Appeals against decisions of the Registrar**  
**Guidelines and Procedures**

**Statutory Basis – the Osteopaths Act 1993 (the Act)**

'Appeals

29. (1) Where the Registrar-

- (a) refuses to register an applicant for registration under this Act,
- (b) registers such an applicant with provisional or conditional registration,
- (ba) refuses to register a person with temporary registration,
- (c) refuses to renew any registration,
- (d) removes the name of a registered osteopath from the register on the ground that he has breached one or more of the conditions subject to which his registration had effect (otherwise than under an order of the Professional Conduct Committee), or
- (e) refuses to grant an application for the conversion of a conditional, or provisional, registration into full registration,

the person aggrieved may appeal to the General Council.

- (2) Any such appeal shall be subject to such rules as the General Council may make for the purpose of regulating appeals under this section.
- (3) An appeal to the General Council must be made before the end of the period of 28 days beginning with the date on which notice of the Registrar's decision is sent to the person concerned...'

**Secondary Legislation**

Pursuant to section 29(2), the GOsC has made The General Osteopathic Council (Fraud or Error and Appeals) Rules 1999 (SI 1999/1846) (the Rules) (see Annex).

### **The Registration Appeals Committee**

In exercise of its powers under section 1(8) of the Act, the Council shall appoint a Registration Appeals Committee (the Committee) in connection with the discharge of its function under section 29 of the Act.

The Committee shall have delegated to it by the Council, under paragraph 15(2)(i) of the Schedule to the Act, the function of hearing appeals pursuant to s29 of the Act, and the power to make decisions in respect of such appeals.

#### Terms of Reference of the Committee

1. To hear registration appeals that are made in accordance with section 29(1) of the Osteopaths Act 1993.
2. To hear such appeals in accordance with the General Osteopathic Council (Fraud or Error and Appeals) Rules 1999.
3. To give advice on matters arising out of any registration appeal hearing.

#### Composition and quorum

The Committee shall consist of all members of Council. Attendance at a hearing shall be at the invitation of the Chair of Council.

The quorum of the Committee shall be three, two of which shall be registrant members and one shall be a lay member.

The Committee shall be chaired by a lay member.

#### Legal Assessor

A Legal Assessor, appointed by the Council under section 27 of the Act, shall attend all hearings.

The Legal Assessor's role shall be as set out in the General Osteopathic Council (Legal Assessor) Rules 1999 and includes giving advice to the Committee on questions of law.

### **Procedure at the Hearing**

The Chair shall open the hearing by confirming that it is a meeting of the Registration Appeals Committee of the General Osteopathic Council and announcing the appeal that is to be heard and the names of those persons present, including the Committee, legal assessor, appellant and legal representatives

If the appellant is not present nor represented, the Committee shall first proceed in accordance with paragraph 4 of the Schedule to the Rules.

The Chair shall then conduct the hearing in accordance with paragraph 5 of the Schedule to the Rules.

At the conclusion of the evidence, the Committee will retire in private and decide whether to dismiss or allow the appeal, in accordance with paragraph 6 of the Schedule to the Rules.

The Committee shall announce its decision and the reasons for it at the end of the hearing and shall ensure that a written record of this is sent to the parties in reasonable time after the hearing.

### **Production of documents**

Documents that are to be relied upon by the parties during hearing should be disclosed to the other party at least four clear days in advance of the hearing date. If not, the Committee shall consider carefully whether to allow the party to rely on that document at the hearing. When determining this, the Committee should have regard to the relevance of the document to the appeal, fairness to each party and the interests of justice. Before making its decision, the Committee shall seek advice from its legal assessor.

### **Changes to procedure**

Paragraph 5(4) of the Schedule to the Rules provides for the Committee to change the procedure for hearing an appeal. This discretion, if exercised, should be used in the interests of justice, and for the proper running of the hearing. The Committee shall seek advice from its legal assessor before making any changes to the procedures.

### **Hearings in public**

Paragraph 2 of the Schedule to the Rules provides that registration appeal hearings shall be held in private, unless the appellant requests a public hearing.

### **Recording of proceedings**

Paragraph 7 of the Schedule to the Rules requires the hearing to be recorded and transcripts to be made available, on request, and on payment of a reasonable fee.

### **Costs**

There are no powers for the Council or Appeals Committee to award costs to either party. Each party is therefore responsible for the costs of bringing its own case before the Appeals Committee.