

UK Parliament SIs 2000-2009/2000/201-250/General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules Order of Council 2000 (SI 2000/241)

2000 No 241

OSTEOPATHS

General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules Order of Council 2000

Made 9th February 2000

Coming into force 8th March 2000

At the Council Chamber, Whitehall, the 9th day of February 2000
By the Lords of Her Majesty's Most Honourable Privy Council

Whereas in pursuance of section 26 of the Osteopaths Act 1993 the General Osteopathic Council have made the General Osteopathic Council Professional Conduct Committee (Procedure) Rules 2000 as set out in the Schedule to this Order:

And whereas by sections 35(1) and 36 of the said Act such Rules shall not come into force until approved by order of the Privy Council:

Now, therefore, Their Lordships, having taken the said Rules into consideration, are pleased to, and do hereby, approve the same.

This Order may be cited as the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules Order of Council 2000 and shall come into force on 8th March 2000.

UK Parliament SIs 2000-2009/2000/201-250/General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules Order of Council 2000 (SI 2000/241)/Signature(s)

AK Galloway

Clerk of the Privy Council

UK Parliament SIs 2000-2009/2000/201-250/General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules Order of Council 2000 (SI 2000/241)/SCHEDULE The General Osteopathic Council Professional Conduct Committee (Procedure) Rules 2000

SCHEDULE

THE GENERAL OSTEOPATHIC COUNCIL PROFESSIONAL CONDUCT COMMITTEE (PROCEDURE) RULES 2000

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Part I Preliminary

The General Osteopathic Council in exercise of their powers under sections 26, 27(3) and 35(2) of and paragraphs 20 and 21 of the Schedule to the Osteopaths Act 1993 and of all other powers enabling them in that behalf, hereby make the following Rules:--

Citation and commencement

1

These Rules may be cited as the General Osteopathic Council Professional Conduct Committee (Procedure) Rules 2000, and shall come into force on 8th March 2000.

Interpretation

2

In these Rules, unless the context otherwise requires:

"the Act" means the Osteopaths Act 1993;

"case relating to conduct or incompetence" means a case where a question arises as to whether the osteopath may have been guilty of unacceptable professional conduct or professional incompetence within the meaning of section 20 of the Act;

"case relating to conviction" means a case where it is alleged that an osteopath has been convicted of a criminal offence whether or not while registered in the United Kingdom;

"the Chairman" means the Chairman of the Professional Conduct Committee;

"the Committee" means the Professional Conduct Committee established under section 1(5)(c) of the Act;

"the complainant" means a person who has made an allegation against an osteopath to the effect specified in paragraph (a), (b) or (c) of section 20(1) of the Act;

"complaint" means the written statement formulated by the Solicitor in accordance with rule 4 of these Rules;

"the Council" means the General Osteopathic Council or a Committee performing the functions of the Council delegated to it under paragraph 15(2)(i) of the Schedule to the Act;

"the Investigating Committee" means the Committee established under section 1(5)(b) of the Act;

"the Health Committee" means the Committee established under section 1(5)(d) of the Act;

"legal assessor" means an assessor appointed by the Council under section 27 of the Act;

"medical assessor" means an assessor appointed by the Council under section 28 of the Act;

"osteopath" means a registered osteopath about whom an allegation as to his fitness to practise has been made and includes a person whose registration is currently suspended;

"a party to proceedings" means the Council or the osteopath;

"the Screener" means a person appointed in accordance with rules made under section 20 of the Act to give preliminary consideration to allegations on behalf of the Council;

"the Solicitor" means any Solicitor representing the Council and presenting evidence to the Committee of the allegation against an osteopath and includes Counsel instructed to represent the Council in connection with any such case.

Part II Initial Considerations

Frequency of meetings

3

The Committee shall meet not less than three times a year on such days as it shall determine provided always that there is business to discharge.

Action following referral

4

On a referral to the Committee by the Investigating Committee, or by the Health Committee, the Committee shall request the Solicitor to review the evidence assembled by the referring committee and formulate a written statement setting out the allegations against the osteopath.

5

The Chairman shall select from amongst the full membership of the Committee, having due regard to the need for a quorum and to the requirements of paragraph 24(2) of the Schedule to the Act, a panel of the Committee to sit with him to hear the case, and at least one member of that panel shall be a lay member of the Committee.

6

No person shall be eligible to sit on a panel hearing a given case if--

- (a) he has personal knowledge of the facts of the case or of the complainant or the osteopath which could be considered prejudicial to a fair hearing; or
- (b) there would be a conflict of interest.

Notice to the osteopath concerned

7

On referral of a case the Committee shall--

- (a) serve on the osteopath concerned a copy of the complaint that has been formulated, any document or statement on which the Committee will be asked to rely, and a copy of these Rules; and
- (b) notify the osteopath of his opportunity to put his case at a hearing if--
 - (i) before the end of the period of 28 days beginning with the date on which the complaint is sent to him he asks for a hearing; or
 - (ii) the Committee considers that a hearing is desirable; and
- (c) notify the osteopath of his right to be legally represented at the hearing.

8

Without prejudice to rule 7, after referral of a case and after reviewing the evidence assembled by the referring committee and any material submitted by the osteopath concerned, the Committee, in any case where it considers it appropriate to do so, shall--

- (a) invite the osteopath to indicate whether he accepts the facts set out in the complaint and, if so, whether he accepts that those facts amount to either unacceptable professional conduct or professional incompetence or that he has been convicted of the criminal offence or offences referred to in the complaint as the case may be;
- (b) indicate to him that in that event the Committee would be minded to conclude that the complaint should be dealt with by way of an admonishment without any need for a hearing unless the osteopath otherwise requests; and
- (c) advise the osteopath that if he does not accept the facts set out in the complaint, or he accepts some or all of these facts but denies that the facts which are so accepted amount to either unacceptable professional conduct or professional incompetence, he has the right (in accordance with rule 7(b)(i)) to appear before the Committee to argue his case and to be legally represented at such a hearing.

9

Subject to rule 10, the Committee shall send notice of the date, time and place of a hearing to the osteopath before the beginning of the period of 28 days ending with the date on which the hearing is to be held.

10

No hearing shall be fixed for a date which occurs before the end of the period of 28 days beginning with the day on which the notice of hearing is sent except with the agreement of the osteopath on his receipt of the material specified at rule 7(a).

Representation

11

The osteopath shall have the right to be legally represented at any hearing to consider the allegations against him.

Witnesses

12

- (1) The Committee may hear witnesses called by the Solicitor and by or on behalf of the osteopath.
- (2) Both the Council and the osteopath shall send to the Registrar and each other notice of the names of the witnesses to be called before the beginning of the period of seven days ending with the date set for the hearing failing which such witnesses may not be called unless the Committee otherwise gives leave.

Additional evidence

13

- (1) If any party to the proceedings wishes to rely at the hearing upon documentary evidence which has not previously been supplied to the Committee he shall forward copies of such documents to the Committee before the beginning of the period of four days ending with the date on which the hearing is to be held.

- (2) The Committee shall send copies of such evidence to all other parties to the hearing before the beginning of the period of four days ending with the date on which the hearing is to be held, and any such evidence not forwarded as above shall only be admitted with the leave of the Committee.

Access to documents

14

- (1) Without prejudice to other rules herein, the Committee shall request the Solicitor to produce to the osteopath at the osteopath's request--
- (a) copies of any statement, explanation, admission or other document sent to the Council by any person in connection with the proceedings against the osteopath; and
 - (b) copies of statements in the possession of the Solicitor or the Council from persons who may be called to give evidence at the hearing, other than any medical evidence of fitness to practise.
- (2) The Solicitor shall not be requested to produce any written advice or other document or communication sent by himself to the Council or one of its Committees.

Notice to produce documents

15

- (1) Any party may at any time give another party notice to produce any document relevant to the inquiry alleged to be in the possession of that party.
- (2) Upon request the Committee may, subject to section 26(3) of the Act, require the production of any document to the Registrar at any time before the beginning of any hearing if satisfied that the document is material and that a request for it to be produced voluntarily has not been complied with.

Legal assessor

16

A legal assessor shall be selected by the Chairman for any hearing from the list of those appointed by the Council to assist the Committee under section 27 of the Act.

Openness of hearings

17

- (1) Except as provided in paragraph (2) the proceedings of the Committee shall be held in public.
- (2) The Committee may decide that it is in the interests of the complainant, or of any person giving evidence, or of any patient, to hold the hearing or any part of it in private and, in such a case, all persons who are not concerned with the hearing shall withdraw.
- (3) In paragraph (2) a person is not concerned with the hearing unless he is--
- (a) a member of the Committee or a legal or medical assessor;
 - (b) the osteopath or his representative;
 - (c) the solicitor or his representative;
 - (d) an officer or member of the Council;
 - (e) a person giving oral evidence to the Committee;
 - (f) a person given leave by the Chairman to remain at the hearing.

Postponement of hearing

18

- (1) The Chairman may postpone the hearing to such later date or such later meeting of the Committee as he may determine.
- (2) The Committee shall send to all parties, to whom the notice of hearing had been sent, notification of the decision to postpone, and of any subsequent date, time and place fixed for the postponed hearing, which shall not take place before the end of the period of 14 days beginning with the day on which notification is given.

Cancellation of hearing

19

- (1) Where after a complaint has been referred to the Committee for consideration it appears to the Committee that such consideration cannot due to exceptional circumstances properly take place, it may, after taking advice from the legal assessor and after consulting the Investigating Committee and obtaining the consent of the osteopath concerned, direct that a hearing should not be held and that the case should be concluded, provided that where there is an individual complainant the Committee shall, before it consults the Investigating Committee, endeavour to ascertain the views of the complainant.
- (2) The Committee shall not be required to obtain the consent of the osteopath under paragraph (1) above where such consent could not properly be obtained due to death, mental or physical incapacity.
- (3) As soon as any decision is reached as to cancellation of a hearing, the Committee shall send notice of that decision to the osteopath and to the complainant if any.

Part III Conduct of the Hearing

Proceedings in the absence of the osteopath

20

Where the osteopath does not appear and is not represented, the Committee may nevertheless proceed with the hearing, make a finding and if appropriate apply sanctions provided the Solicitor satisfies the Committee that all reasonable steps have been taken to serve the notice of the hearing on the osteopath concerned.

Introductions

21

On calling the hearing to order, the Chairman shall first introduce all the parties to the proceedings.

The complaint

22

The hearing shall open with the Registrar, or the person appointed to act for him, reading the complaint against the osteopath.

23

- (1) At this point the osteopath or his representative may submit any objection on grounds of law to any part of the complaint and the Solicitor may be invited to reply to any such submission on behalf of the Council.

- (2) After seeking the advice, if any, of the legal assessor, the Committee will rule on the objection raised by the osteopath.

24

If, at any stage of the hearing, it appears to the Committee that the complaint should be amended, the Committee may, after hearing the parties and seeking advice from the legal assessor, make such amendments to the complaint as may seem necessary or desirable if it is satisfied that no injustice would thereby be caused.

25

If, at any stage of the hearing, it appears to the Committee that the case would more appropriately be heard by the Health Committee, it shall halt the proceedings and refer the case to the Health Committee.

Presentation of the Case

Cases relating to conviction

26

- (1) In cases relating to conviction the order of proceedings shall be as follows--
- (a) the Solicitor shall be requested to adduce evidence of any conviction and its circumstances;
 - (b) evidence of a conviction may be adduced by the production of a certified copy of a certificate of conviction relating to a criminal offence;
 - (c) if in respect of any conviction, no evidence is so adduced, the Chairman shall announce that the conviction has not been proved;
 - (d) the Chairman shall ask the osteopath whether he accepts each conviction of which evidence is adduced and in respect of such accepted conviction the Chairman shall announce the conviction to have been proved;
 - (e) in respect of convictions not so accepted, the osteopath or his representative may address the Committee and adduce both oral and documentary evidence to show that he was not the person convicted;
 - (f) thereafter the Solicitor may, with the Committee's leave, seek to rebut any evidence of the osteopath by adducing evidence to that effect;
 - (g) the Solicitor and then the osteopath or his representative may address the Committee.
- (2) On conclusion of the proceedings in paragraph (1) above, the Committee shall consider each conviction alleged in the complaint other than those admitted or announced to be not proved and shall determine whether or not each such conviction is proved and the Committee shall then announce its determination.
- (3) Where the Committee have found that a conviction has been proved or a conviction has been admitted, the Chairman shall--
- (a) invite the Solicitor to address the Committee and to adduce any further evidence as to the circumstances leading up to the conviction, and as to the character and previous history of the osteopath; and
 - (b) invite the osteopath or his representative to address the Committee by way of mitigation and adduce any further such evidence.

- (4) The Solicitor and the osteopath, or his representative, shall, if appropriate, be invited to address the Committee on whether the criminal offence in question has any material relevance to the fitness of the osteopath concerned to practise osteopathy.
- (5) The Committee shall then proceed in accordance with rules 35 to 39.

Cases relating to barring entries

26A

- (1) In cases relating to barring entries, the order of proceedings shall be as follows--
 - (a) the Solicitor shall be requested to adduce evidence of any barring entry and its circumstances;
 - (b) evidence relating to the barring entry, and of any findings of fact made by the [Independent Safeguarding Authority] or the Scottish Ministers on which that barring entry is based, may be adduced in the form of information--
 - (i) provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007,
 - (ii) provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007;
 - (c) if in respect of any barring entry, no evidence is adduced that the barring entry has been made, the chair shall announce that the barring entry has not been proved;
 - (d) the chair shall ask the osteopath ("O") whether O accepts each barring entry of which evidence is adduced, and shall announce that any such accepted barring entry has been proved;
 - (e) in respect of any barring entry not so accepted, O or O's representative may address the Committee and adduce both oral and documentary evidence to show that O was not the person in respect of whom the barring entry was made;
 - (f) thereafter the Solicitor may, with the Committee's leave, seek to rebut any evidence of O by adducing evidence to that effect;
 - (g) the Solicitor and then O or O's representative may address the Committee.
- (2) On conclusion of the proceedings in paragraph (1), the Committee shall consider each barring entry alleged in the complaint, other than those accepted or announced not to be proved, and shall determine whether or not each such barring entry is proved and then announce its determination.
- (3) Where the Committee have announced that a barring entry has been proved or where a barring entry has been accepted, the chair shall--
 - (a) invite the Solicitor to address the Committee and adduce any further evidence as to character and previous history of O and the circumstances leading to the barring entry, and for these purposes--
 - (i) a document from the [Independent Safeguarding Authority], authenticated in whatever way the General Council may approve and adduced under paragraph (1)(a), that provides a statement of the findings of fact made by the Board that led to the barring entry shall be conclusive evidence of the facts found proved by the Board, and
 - (ii) a document from the Scottish Ministers, authenticated in whatever way the General Council may approve and adduced under paragraph (1)(a), that provides a statement of the findings of fact made by the Scottish Ministers that led to the barring entry shall be conclusive evidence of the facts found proved by the Scottish Ministers;

(b) invite O or O's representative to address the Committee by way of mitigation and adduce any further evidence as to the matters referred to in sub-paragraph (a).

(4) The Solicitor and O or O's representative, shall, if appropriate, be invited to address the Committee on whether the barring entry in question has any material relevance to the fitness of the osteopath concerned to practise osteopathy.

(5) The Committee shall then proceed in accordance with rules 35 to 39.

(6) For the purposes of this rule, "barring entry" means--

(a) the [Independent Safeguarding Authority] including a person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or

(b) the Scottish Ministers including a person in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007).]

Cases relating to conduct or incompetence

27

(1) In cases of conduct or incompetence the Chairman shall ask the osteopath whether he admits any or all of the facts alleged and, in respect of any such facts so admitted, the Committee shall record a finding that those facts have been proved.

(2) Where all the facts are admitted the osteopath or his representative may submit that in respect of any complaint where the facts have been admitted, those facts are insufficient to support a finding of unacceptable professional conduct or professional incompetence.

(3) Where such a submission is made, the Solicitor may answer that submission and the osteopath or his representative shall have the right of reply.

(4) The Committee shall consider and determine whether to uphold the submission and if it does, the Committee shall record and announce a finding that the osteopath is not guilty of unacceptable professional conduct or professional incompetence in respect of the matters to which the complaint relates.

(5) If none or some only of the facts are admitted or if the Committee does not uphold any submission under rule 27(4) above, the Committee shall proceed as follows--

(a) the Solicitor shall be requested to open the case against the osteopath by presenting the facts alleged on which the complaint is based and by then adducing any evidence of the facts alleged and which have not been admitted by the osteopath;

(b) any witness called to give evidence may be cross-examined by the osteopath or his representative and re-examined by the Solicitor;

(c) if on any allegation no evidence is adduced the Committee shall record and announce a finding that the osteopath is not guilty of unacceptable professional conduct or professional incompetence in respect of that allegation.

(6) When the Solicitor has closed his presentation of the case, the osteopath or his representative may submit--

(a) that in respect of the facts alleged but not admitted in the complaint no sufficient evidence has been adduced upon which the Committee could find the facts proved;

(b) in respect of any allegation the facts adduced or admitted are insufficient to support a finding of unacceptable professional conduct or professional incompetence, and

where such submission or submissions are made, the Committee shall proceed in accordance with paragraphs (3) and (4) above.

28

- (1) The osteopath or his representative may then address the Committee concerning any allegation that remains and may adduce evidence either documentary or oral, including his own, in his defence.
- (2) The osteopath or any witness called on his behalf may be cross-examined by the Solicitor and re-examined by the osteopath or his representative.
- (3) At the end of the evidence of the osteopath the Solicitor may with the leave of the Committee adduce evidence to rebut any evidence adduced by the osteopath or his representative.
- (4) The Solicitor may then address the Committee following which the osteopath or his representative may also address the Committee.

Consideration by the Committee

29

The Committee shall then consider the case in private and determine whether the facts alleged in the complaint have been proved to their satisfaction by the evidence.

30

If it so determines it must next decide whether the facts as proved amount to unacceptable professional conduct or professional incompetence.

Announcement of the finding

31

All parties to the case having reassembled, the Chairman shall announce the Committee's findings and its reasons for those findings, with regard both to the facts of the case and to whether the osteopath has been found guilty of unacceptable professional conduct or of professional incompetence.

32

Where the Committee finds the complaint not to be proved the Chairman shall announce this finding and the reasons for it and dismiss the case.

Plea in mitigation

33

- (1) Where the Committee has found the complaint proved, either in whole or in part, the Chairman shall invite the Solicitor to address the Committee as to any additional circumstances leading up to the unacceptable professional conduct or professional incompetence and as to the character and previous history of the osteopath.
- (2) He shall then invite the osteopath or his representative to address the Committee by way of mitigation and the osteopath may adduce oral or documentary evidence to support mitigation.

Questions by the Committee

34

At any stage during the proceedings before the Committee, any member of the Committee or the legal assessor may with the Chairman's permission question those presenting evidence or any witness called.

Consideration of sanctions

35

In any case where the Committee has found a conviction proved or has made a finding of unacceptable professional conduct or professional incompetence either in whole or in part, and has heard any plea in mitigation, the Committee shall consider in private what sanction, if any, it shall apply to the osteopath.

Announcement of sanction

36

When all parties to the case have reassembled, the Chairman shall announce the Committee's decision with regard to sanctions.

37

In any case where the Committee has imposed conditions on or suspended the registration of a practitioner for a specified period, the Chairman shall also indicate--

- (a) that the Committee shall review the case at a review hearing before the end of that period; and
- (b) what information it shall require at the review hearing.

38

The Committee shall notify the osteopath of its decision, its reasons for reaching that decision and of his rights of appeal.

39

The Committee shall also notify the complainant of the Committee's decision and of its reasons for reaching that decision.

Interim Suspension Orders

40

- (1) Where a case has been referred to the Committee and--
 - (a) the Committee has not reached a final decision on the matter; or
 - (b) the Committee has reached a decision to impose a suspension order or to remove an osteopath's name from the Register

then the Committee may, if it is satisfied that it is necessary to do so in order to protect members of the public, order the Registrar to suspend the registration of the osteopath concerned (an Interim Suspension Order) in accordance with section 24 of the Act.

- (2) Where the Committee considers that an Interim Suspension Order may be appropriate, it shall fix a date, time and place for deciding that question, having regard to the urgency and all the circumstances of the case and shall notify the osteopath of his right to appear before the Committee and to argue his case and to be legally represented.

- (3) The Committee may postpone a hearing or adjourn proceedings as it thinks fit, either on its own motion, or on the request of the osteopath.

- (4) A medical assessor may be appointed by the Chairman to be present at any hearing under this rule.
- (5) Where the osteopath does not appear and is not represented, the provisions of rule 20 shall apply.
- (6) The Solicitor shall be requested to present the case to the Committee and call such evidence as he wishes to justify an Interim Suspension Order.
- (7) The osteopath or his representative shall have the right to cross-examine any witness called by the Solicitor who may in turn re-examine such witness.
- (8) The osteopath or his representative may then present the case against the making of such an Order by calling such evidence as he wishes and the Solicitor shall have the right to cross-examine such witness on behalf of the Council and the osteopath or his representative may in turn re-examine such witness.
- (9) The Solicitor and the osteopath or his representative may address the Committee.
- (10) Members of the Committee, the legal assessor, and the medical assessor may, with the consent of the Chairman, question a person giving evidence at the hearing.
- (11) Save as set out herein, the procedure of the Committee shall be as it may determine.
- (12) The Committee shall in private decide whether to impose an Interim Suspension Order and the decision of the Committee shall be given at the conclusion of the hearing.
- (13) The Committee shall direct the Registrar to confirm its decision in writing to the osteopath, informing him also of his right to appeal against the decision in accordance with section 24 of the Act.

Revocation of interim suspension orders

41

- (1) The Committee may on the written application of the osteopath revoke an Interim Suspension Order made under these Rules on the grounds stated in section 25(1) of the Act.
- (2) When such an application is made it shall be heard by the Committee at the first available opportunity and the Committee shall follow the procedures set out in rule 40(6) to (11).

Consideration of allegations against two or more osteopaths

42

Nothing in these Rules shall be construed as preventing the consideration together of allegations against two or more osteopaths and where such consideration is given, these Rules shall apply with necessary adaptation and subject to any direction given by the Committee as to the order in which proceedings shall be heard under any of these Rules in relation to the several osteopaths concerned.

Multiple allegations against an osteopath

43

Where in the case of any hearing, it is alleged against the osteopath both that he has been convicted and that he has been guilty of unacceptable professional conduct or professional incompetence, the following shall be the procedure--

- (a) the Committee shall first proceed with every allegation that the osteopath has been convicted until it has completed the process required by rule 26 save for rule 26(5);
- (b) the Committee shall then proceed with every allegation that the osteopath has been guilty of unacceptable professional conduct or professional incompetence as aforesaid, until it has completed the process required by rules 27 to 32;

- (c) the Committee shall then take any proceedings required by way of mitigation and imposition of sanctions under rules 33 to 39.

Reconvening of the Committee

44

The Committee shall meet following the decision of Her Majesty in Council to remit a case to the Committee to dispose of in accordance with the directions of the Judicial Committee, and the Committee shall dispose of the case in accordance with those directions.

Part IV Review Procedures

Procedure on resumed or review hearings

45

- (1) Where the Committee is to resume a previous hearing or is, in accordance with rule 37 or 53, meeting to review orders previously made, it shall send to the osteopath notice of the date, time and place fixed for the resumed or review hearing and any information or further evidence on which the Committee will be asked to rely, before the beginning of the period of 28 days ending with the date on which the hearing is to be held.
- (2) The Committee shall give the osteopath the opportunity to appear before it and argue his case and shall inform him of his right to be legally represented.
- (3) The Committee shall further, where appropriate, invite the osteopath to provide it with any evidence whether by way of statement, report or document as to the conduct of the osteopath since the time of the original inquiry, and his compliance with the conditions in any Conditions of Practice Order.
- (4) Where the Committee has adjourned the hearing, or has imposed conditions upon an osteopath's registration, or suspended the registration of an osteopath, and has given notice that it will resume consideration of such a case, the Committee may ask the osteopath to provide to it the names and addresses of professional colleagues and other persons of standing to whom the Committee can apply for information about the osteopath's conduct since the time of the original or any previous hearing; and the Committee shall supply copies of any such information received to the osteopath.
- (5) Where any osteopath has supplied to the Committee the name of any person to whom reference may be made as to his conduct, the Committee shall consider any information received from such person in consequence of such a reference.

46

If since the original hearing any new allegation against the osteopath has been referred to the Committee, the Committee shall first proceed with any new allegation in accordance with rules 21 to 39 hereof.

47

At any meeting at which the proceedings are resumed, or a review undertaken, the Chairman shall first invite the Solicitor to recall the position in which the case stands for the information of the Committee, and shall invite the Solicitor to adduce such evidence as he thinks fit in the same way as for the original hearing.

48

The Committee shall then hear the osteopath or his representative who shall adduce such evidence as he thinks fit and the Committee shall then proceed as the circumstances of a case may require.

49

It shall be the duty of the Committee, where the osteopath is subject to a Conditions of Practice Order, to judge first whether the osteopath has failed or succeeded in complying with any of the requirements imposed on him as conditions.

50

If the Committee judges that the osteopath has complied, it shall determine whether to revoke the direction made at the previous hearing, to vary the conditions if necessary, or to make no further directions and allow the case to conclude on the expiry of the period for which the direction made at the previous hearing applies.

51

If the Committee judges that the osteopath has failed to comply with the conditions, it must consider and determine whether it is sufficient to vary the conditions imposed, or, if not, whether to direct that the current period of conditions shall be extended with or without any variation, or to impose such other sanction as stated in section 22(6) of the Act.

52

Where previously the Committee had directed that an osteopath's registration should be suspended, the Committee shall consider and determine whether it is sufficient to make no further direction or, if not, whether to direct the registration of the osteopath to be subject to a Conditions of Practice Order if the osteopath resumes practice after the end of his suspension, or to direct that any current period of suspension should be extended for a further period of no more than three years.

53

The Chairman shall announce the determinations of the Committee in such terms as the Committee may approve and may also indicate at the same time in the case of a Conditions of Practice Order which is being extended or reduced for a specified period that it will review the case before any order ceases to have effect and to consider any further determination that may be necessary.

54

Subject to the provisions of the Act, the validity of any resumed proceedings of the Committee shall not be called into question by reason only that members of the Committee who were present at any former meeting were not present at the resumed meeting, or that members present at the resumed meeting were not present at any former meeting.

General Matters

Adjournment

55

- (1) At any stage during the proceedings the Chairman shall have the power to adjourn the proceedings.
- (2) When the proceedings are so adjourned, the Committee shall send to the osteopath concerned and to the complainant written notice of the date, time and place of any resumed hearing.

- (3) A resumed hearing shall not be fixed for a date which occurs before the end of the period of 14 days after which the notice of that hearing is sent.

Evidence

56

The Committee shall have the power to administer oaths and all evidence given orally shall be given on oath or be affirmed.

57

- (1) The Committee may, if satisfied that the interests of justice will not thereby be prejudiced, admit into evidence without strict proof, copies of documents which are themselves admissible, photographs, certificates of conviction, and sentence, the records and registers of the Council, notes of proceedings before the Committee and before other tribunals, or any other material, and the Committee may take note without strict proof of the professional qualifications, registration, address and identity of the osteopath or of any other person.
- (2) The Committee may by summons require any person to attend at a time and place stated in the summons to give evidence or to produce any documents in his custody or under his control which relate to any matter in issue before the Committee and shall pay or tender the necessary expenses of attendance.
- (3) Any person summoned to attend under the provisions of this rule shall be informed of the offence under section 32(2) of the Act which may be committed in the event of non-compliance.
- (4) Without the leave of the Committee no person (other than a party to the proceedings) shall be called as a witness by either party in proceedings before the Committee unless he has been excluded from the proceedings until he is called to give evidence.

58

All parties to the proceedings shall be entitled to seek an order of the Committee requiring persons to attend and give evidence or to produce documents before the Committee.

59

The Committee may deliberate in camera with or without the legal assessor at any time and for any purpose during or after the hearing of any proceedings and for such purpose may exclude the Solicitor, the Council, the osteopath, and his representative.

Legal representation

60

References to legal representation in these Rules shall include representation by Counsel, a Solicitor, or an officer or member of any professional organisation of which the osteopath is a member, or a member of his family.

Record of proceedings

61

- (1) A shorthandwriter or recording system shall be available at the hearing to permit a verbatim record of the proceedings to be made.
- (2) Any party to the proceedings of the Committee shall, on application to the Registrar before the end of the period of three months beginning on the last day of the hearing in question, be furnished with a

transcript of all or any part of the proceedings at which the party was entitled to be present whether he was present or not.

Referral to the Health Committee

62

Where it appears to the Committee that an osteopath's ability to practise may be seriously impaired by reason of his physical or mental condition, the Committee may refer that question to the Health Committee for determination whether or not the allegation has been proven and, if it has been proven, whether or not the Committee has made a Conditions of Practice Order with respect to the osteopath.

63

If, following a referral under this rule, the Health Committee subsequently certifies to the Committee its opinion that the fitness of the osteopath to practise is not seriously impaired by reason of his physical or mental condition, then the Committee shall at that stage resume its consideration of the case and conclude it.

64

If, following a reference to the Health Committee, the Health Committee certifies to the Committee its opinion that the fitness of the osteopath is seriously impaired, then the Committee shall cease to exercise its functions in relation to that case.

Postal service of documents

65

- (1) Any notice or communication required by these Rules to be served on a person may be served on the person either by delivering it to him or leaving it at his address, or by sending it by Registered Post or by Recorded Delivery service.
- (2) For the purposes of these Rules, the osteopath's address shall be his address in the Register or his last known address if it differs from his address in the Register and it appears to the Solicitor that a letter sent to him there is more likely to reach him than at his registered address.
- (3) For the purpose of these Rules service of a notification sent by post shall be deemed to have been effected at the time when the letter containing it is sent.
- (4) Any notice or communication other than a notice or communication required by these Rules must be sent by first class post.

Given under the official seal of the General Osteopathic Council this 4th day of February two thousand.

Simon Fielding

Chairman

NOTES

Initial Commencement

Specified date

Specified date: 8 March 2000: see Preamble.

Amendment

Contents: Rule 26A heading inserted by virtue of SI 2009/1182, art 4(1), Sch 4, Pt 2, para 19.

Date in force: this amendment shall come into force on the date on which the Safeguarding Vulnerable Groups Act 2006, s 44(1) comes into force: see SI 2009/1182, art 1(6)(d).

Rule 26A: inserted by SI 2009/1182, art 4(1), Sch 4, Pt 2, para 19.

Date in force: this amendment shall come into force on the date on which the Safeguarding Vulnerable Groups Act 2006, s 44(1) comes into force: see SI 2009/1182, art 1(6)(d).

Para 26A: in sub-para (1)(b) words "Independent Safeguarding Authority" in square brackets substituted by virtue of the Policing and Crime Act 2009, s 81(5).

Date in force: 12 November 2009: see the Policing and Crime Act 2009, s 116(5)(a).

Para 26A: in sub-para (3)(a)(i) words "Independent Safeguarding Authority" in square brackets substituted by virtue of the Policing and Crime Act 2009, s 81(5).

Date in force: 12 November 2009: see the Policing and Crime Act 2009, s 116(5)(a).

Para 26A: in sub-para (6)(a) words "Independent Safeguarding Authority" in square brackets substituted by virtue of the Policing and Crime Act 2009, s 81(5).

Date in force: 12 November 2009: see the Policing and Crime Act 2009, s 116(5)(a).

UK Parliament SIs 2000-2009/2000/201-250/General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules Order of Council 2000 (SI 2000/241)/EXPLANATORY NOTE

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Osteopaths Act 1993, approves Rules made by the General Osteopathic Council prescribing the procedure to be followed by the Council's Professional Conduct Committee in cases where a question has been raised as to whether an osteopath registered, or previously registered, under the Act may have been guilty either of conduct which falls short of the standard required of a registered osteopath or of professional incompetence, or may have been convicted in the United Kingdom of a criminal offence.