



GENERAL OSTEOPATHIC COUNCIL

APPEALS AGAINST DECISIONS OF THE REGISTRAR

GUIDELINES AND PROCEDURES

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STATUTORY BASIS

Osteopaths Act 1993

“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,*
- (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 then 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.

(4) Any person aggrieved by the decision of the General Council on an appeal under this section may appeal, on a point of law, to the appropriate court.

(5) Any right of appeal given by this section shall be in addition to any right which the person concerned may otherwise have to appeal to a county court or, in Scotland, to the sheriff; but only one such right of appeal may be exercised in relation to the same decision.

(6) In this section “the appropriate court” means-

- (a) in the case of a person whose registered address is (or if he were registered would be) in Scotland, the Court of Session;*
- (b) in the case of a person whose registered address is (or if he were registered would be) in Northern Ireland, the High Court of Justice in Northern Ireland; and*
- (c) in any other case, the High Court of Justice in England and Wales.”*

Secondary Legislation

Pursuant to section 29(2), the following incorporates rules made for the purpose of regulating such appeals: the General Osteopathic Council (Fraud or Error) and Appeals) Rules 1999. (Annexed at A)

THE GENERAL OSTEOPATHIC COUNCIL APPEALS COMMITTEE

On the 29 April 1999, in exercise of its powers under section 1(8) of the Osteopaths Act 1993, the General Council established the Appeals Committee in connection with the discharge of its function under section 29 of the Act.

Further, under paragraph 15(2)(i), the General Council, on 29 April 1999, delegated to the Appeals Committee the function of hearing appeals, and the power to make decisions in respect of such appeals.

Terms of Reference of the Appeals Committee

To hear appeals where the Registrar-

- ◆ refuses to register an applicant for registration under the Osteopaths Act 1993;
- ◆ registers such an applicant with provisional or conditional registration;
- ◆ refuses to renew any registration;
- ◆ removes the name of a registered osteopath from the register on the grounds that he had 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;
- ◆ refuses to grant an application for the conversion of a conditional, or provisional, registration into full registration.

To hear such appeals in accordance with the General Osteopathic Council (Fraud or Error and Appeals) Rules 1999, which came into force on 5th July 1999.

To give advice to the General Council on matters arising out of any appeal hearing.

Quorum

In accordance with the decision of Council on 29 April 1999, the Appeals Committee quorum shall be:

- ◆ five members of Council;
- ◆ at least three members shall be osteopathic members, and two lay members.

The General Council, on 29 April 1999, indicated that at least one of the osteopathic members should have experience of the GOsC evaluation process. However, any member involved with the evaluation of the person aggrieved should not sit on the Appeals Committee hearing the appeal against that individual.

Appointment of Chairman

Council members present at any meeting of the Appeals Committee shall choose one of their number to take the chair at that meeting. On the 29 April 1999, the General Council expressed the view that it would be preferable to have a lay member of the Appeals Committee to act as Chairman.

PROCEDURE AT THE HEARING

A note of the cases to be heard will be posted at the GOsC Office reception. Proceedings shall generally begin at 10.00am and will be tape-recorded. By that time, all parties, any observers; and GOsC support staff should be in place in the Council Chamber (witnesses for each party will be in separate rooms, waiting to be called). The Appeals Committee will then enter with the Legal Assessor, and take their seats.

The Secretary shall begin by confirming that this is a meeting of the Appeals Committee of General Osteopathic Council and announcing the name of the Chairman for the hearing, and the name of the Legal Assessor.

She will then announce the name of the person aggrieved and the hearing reference number. Finally, she will identify the Registrar and her legal representative, and the person aggrieved and his/her legal representative.

The Chairman of the Committee must then invite the Registrar's legal representative to open the case. We do not expect people to stand when addressing the Committee, so please do not think it disrespectful when people remain seated.

It is important that the preceding formalities are carried out, so this information is captured on the tape-recorder.

The Registrar, or her legal representative, may call and question witnesses, and the Registrar herself may give evidence. Witnesses will always be asked to come and sit in a particular place, so their testimony will be picked up by the recording system.

The person aggrieved may cross-examine the Registrar and any witnesses called on her behalf. Re-examination on behalf of the Registrar may then take place.

The person aggrieved will then be invited to present the case against the relevant decision, and may call and question witnesses, and may give evidence on his own behalf.

When each witness has concluded their evidence, the Chairman will ask them to take a seat in the observer's section, or leave the Council Chamber.

The person aggrieved and any person called on his behalf may be cross-examined by the Registrar.

The Registrar may then address the General Council concerning the decision, and the person aggrieved may give a concluding address.

Questions

The Chairman may invite the legal assessor, any medical assessor present, or any member of the Appeals Committee to question any person giving evidence. The legal assessor may at any point, by the Chairman, be invited to advise the Committee on relevant matters of law during the hearing.

Paragraph 5(3) of the Schedule to these rules provides for Committee members, with the consent of the Chairman, to question any person giving evidence at the hearing.

Production of Documents

If anyone wants to rely on documents to support his or her case, these should have been disclosed prior to the hearing. However, sometimes, a party may ask to produce a document at a hearing. The Appeals Committee should consider such a request carefully and, the interests of justice should be paramount in making a decision whether or not to admit a document.

(Note: paragraph 5(4) of the schedule to the rules permits the Committee to change the procedure for hearing an appeal. Again this discretion, if exercised, should be used in the interests of justice, and for the proper running of the hearing).

DEALINGS WITH THE PRESS AND OTHER PARTIES

Paragraph 2 of the Schedule to the GOsC (Fraud or Error and Appeals) Rules 1999 provides that oral hearings shall be in private, unless the person aggrieved requests a public hearing. Public, including the press, may then be present.

In some circumstances, you may be approached by the media, the person aggrieved, or someone else who might have an interest in the case. In all situations, you must remain impartial. However tempting, do not express your opinions, or say anything which might subsequently be taken to form the basis of a legal challenge.

You may speak in general terms to members of the press about the Committee's role, but ideally you should refer them to the Head of Communications, or the Deputy Registrar. Explain that as a member of the Appeals Committee, it is inappropriate to comment.

You should avoid speaking, even after a case, with the parties and any witnesses. You must not, in any event, speak about discussions held in private or about how members voted on a case.

We will make every endeavour to keep the parties and witnesses separate from each other, and Committee members. If you should meet either party, or a witness, while the case is still being heard you must keep your distance from them. Again, you must remain impartial at all times and be seen to be impartial.

Transcripts of Hearings

Recording of Proceedings

The rules provide for transcripts of hearings to be made available, on request, and on payment of a reasonable fee. This means that hearings will be recorded, and transcripts made, if required.

Proceedings must therefore be orderly, and people must not all speak at once! It is the job of the Chairman to ensure everyone is clear about when they are able to speak (either at his invitation, or to answer questions put by the legal representatives).

Osteopathy House, like many other venues for tribunal hearings, is on a main road and so we will have to contend with traffic noise. This is unavoidable. The Office will, however, make sure hearings are not interrupted by extra noise from building work, for example.