
STATUTORY INSTRUMENTS

1999 No. 1846

OSTEOPATHS

**The General Osteopathic Council (Fraud or
Error and Appeals) Rules Order of Council 1999**

Made - - - - - *30th June 1999*

Coming into force - - - - - *5th July 1999*

At the Council Chamber, Whitehall, the 30th day of June 1999
By the Lords of Her Majesty's Most Honourable Privy Council

Whereas in pursuance of sections 10(4) and (12), 27(3), 28(3) and 29(2) of, and paragraph 21 of the Schedule to, the Osteopaths Act 1993⁽¹⁾ the General Osteopathic Council have made the General Osteopathic Council (Fraud or Error and Appeals) Rules 1999 as set out in the Schedule to this Order:

And whereas by sections 35(1) and 36 of that 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 (Fraud or Error and Appeals) Rules Order of Council 1999 and shall come into force on 5th July 1999.

A. K. Galloway
Clerk of the Privy Council

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THE GENERAL
OSTEOPATHIC COUNCIL
(FRAUD OR ERROR AND
APPEALS) RULES 1999

The General Osteopathic Council, in exercise of its powers under sections 10(4) and (12), 27(3), 28(3) and 29(2) of, and paragraph 21 of the Schedule to the Osteopaths Act 1993(2), and of all other powers enabling it in that behalf, hereby makes the following Rules:

PART 1
INTRODUCTION

Citation and Commencement

1. These Rules may be cited as the General Osteopathic Council (Fraud or Error and Appeals) Rules 1999 and shall come into force on 5th July 1999.

Interpretation

- 2.—(1) In these Rules, unless context otherwise requires—
- “the Act” means the Osteopaths Act 1993;
 - “an appeal” means an appeal against a relevant decision;
 - “legal assessor” means a person appointed under section 27 of the Act;
 - “medical assessor” means a person appointed under section 28 of the Act;
 - “a relevant decision” means a decision referred to in section 29(1) of the Act.
- (2) Unless the context otherwise requires, any reference—
- (a) in these Rules to a numbered rule is a reference to the rule bearing that number in these Rules;
 - (b) in a rule in, or in the Schedule to, these Rules to a numbered paragraph is a reference to the paragraph bearing that number in that rule or in the Schedule;
 - (c) in a paragraph in the Schedule to these Rules to a numbered subparagraph is a reference to the subparagraph bearing that number in that paragraph.

Service of documents

- 3.—(1) Subject to paragraph (4), in these Rules a reference to the sending of a notice or other document to any person (other than a document referred to in paragraph 8(2) of the Schedule which may be sent by post) is a reference to delivering it to him personally or sending it to him by registered post or by the recorded delivery service—
- (a) where the person is the Registrar, to the address of any office of the General Council;
 - (b) where the person is a registered osteopath—
 - (i) to his address in the register or, if his last-known address differs from the address in the register, his last-known address, or
 - (ii) if he is represented by a solicitor, to the solicitor’s professional address;
 - (c) where the person is not a registered osteopath or the Registrar—

(2) 1993 c. 21.

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- (i) to his last-known address, or
 - (ii) if he is represented by a solicitor, to the solicitor's professional address.
- (2) Where a notice or other document is—
- (a) sent by registered post or by the recorded delivery service it shall be treated as having been sent on the day that it was posted;
 - (b) delivered personally, if—
 - (i) it is delivered by the Registrar, it shall be treated as having been delivered when it is handed to the osteopath concerned or the person aggrieved as the case may be;
 - (ii) it is delivered by the osteopath concerned or the person aggrieved, it shall be treated as having been delivered when it is handed to the Registrar or to his representative or left at any office of the General Council.
- (3) Where the Registrar is required to send a notice under rule 4(1) or 5(a), he shall in that notice inform the person to whom it is sent that a notice under rule 4(3) or a notice of appeal under rule 6 as the case may be must either—
- (a) be delivered personally; or
 - (b) be sent by registered post or by the recorded delivery service.
- (4) Notwithstanding the preceding provisions of this rule, a notice sent by post under rule 4(3) or a notice of appeal sent by post under rule 6 other than by registered post or by the recorded delivery service shall be treated as complying with the requirements of paragraph (1) if it is received at any office of the General Council within the time limits specified for sending that notice or notice of appeal as the case may be.

PART II

FRAUD OR ERROR

Fraud or error in relation to registration

- 4.—(1) Where the Registrar proposes to suspend an osteopath's registration pursuant to an allegation that such registration has been fraudulently procured or incorrectly made, he shall send the osteopath concerned a notice stating that—
- (a) he may appear before the Committee and argue his case against suspension if he notifies the Registrar in writing of his intention to do so within the period of fourteen days beginning with the date of the sending of the notice; and
 - (b) he may be legally represented.
- (2) The Registrar may extend the period referred to in paragraph (1)(a) if he is satisfied that in all the circumstances it is reasonable to do so.
- (3) Where the osteopath concerned has, within the period referred to in paragraph (1)(a) (or within any extension of that period allowed by the Registrar under paragraph (2)), sent the Registrar a notice stating that he wishes to appear before the Committee, the Registrar shall fix a day on which the Committee is to hear the osteopath or his representative and notify the osteopath of the day on which the time and place at which the hearing is to be held.
- (4) The Registrar shall not fix a day for the hearing on any day earlier than the end of the period of twenty eight days beginning with the day on which the osteopath concerned delivered or sent the notice referred to in paragraph (3) to the Registrar.

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(5) The Registrar shall be a party to the proceedings under this rule and may appear before the Committee at the hearing and be legally represented.

(6) Both the osteopath concerned and the Registrar may produce documentary evidence to the Committee and may call witnesses and put questions to any person called as a witness before the Committee.

(7) Where the proceedings before the Committee concern an allegation that entry to the register has been fraudulently procured, it shall not hear any evidence which would not be admissible if the proceedings were criminal proceedings in any court in that part of the United Kingdom in which the hearing takes place unless, after consultation with the legal assessor, it is satisfied that its admission is necessary in order to protect members of the public.

(8) At the hearing before the Committee the Registrar shall first present the case for suspending the registration of the osteopath concerned and the osteopath shall be given the opportunity to speak last but, subject to these requirements, the procedure at the hearing shall be such as the Committee may determine.

(9) The Committee may adjourn the proceedings from time to time as it thinks fit.

(10) The Committee shall decide whether or not there is reasonable cause for the Registrar to suspend the registration of the osteopath concerned and, if there is reasonable cause, the duration of the suspension.

(11) The duration of the suspension of registration under section 10(3) of the Act shall be for a period of not longer than six months but if, having considered any report of the Registrar, the General Council is satisfied that the entry in question has not been fraudulently procured or incorrectly made, it shall order the Registrar to lift the suspension immediately.

(12) The Chairman of the Committee shall give the decision of the Committee orally at the end of the hearing and the Registrar shall—

- (a) record the decision in writing;
- (b) as soon as is practicable after the hearing, send a copy of the decision and the reasons for the decision to the osteopath concerned; and
- (c) where the Committee upholds the Registrar's proposal to suspend the registration of the osteopath concerned, send to the osteopath a notice of suspension which includes the duration of the suspension.

(13) In this rule, "the Committee" means the Investigating Committee.

PART III

APPEALS UNDER SECTION 29 OF THE ACT

Notice of Relevant Decision

5. Where the Registrar has made a relevant decision he shall, before the end of the period of seven days beginning with the date on which the decision was made—

- (a) send to the person in respect of whom the decision was made notice in writing of the decision; and
- (b) inform him that he may—
 - (i) within the period of twenty eight days beginning with the date on which notice of the relevant decision is sent to him, appeal to the General Council in accordance with these Rules; and
 - (ii) be legally represented.

Notice of Appeal

6. A notice of appeal shall—
- (a) be in writing;
 - (b) be delivered or sent to the Registrar; and
 - (c) contain a concise statement of the grounds of appeal on which the person aggrieved intends to rely.

Procedure for determining appeals

7.—(1) The Schedule to these Rules shall have effect with respect to the procedure for determining an appeal.

(2) Subject to the provisions of that Schedule, the procedure for determining an appeal shall be such as the General Council may decide.

SCHEDULE

PROCEDURE FOR DETERMINING AN APPEAL

Hearing of the appeal

1.—(1) As soon as practicable after the person aggrieved has appealed against a relevant decision the Registrar shall—

- (a) fix a day on which the General Council is to hold a hearing of the case;
- and
- (b) notify the person aggrieved of the day on which and the time and place at which the hearing is to be held.

(2) The Registrar shall not fix a day for the hearing on any day earlier than the end of the period of twenty eight days beginning with the day on which the notice under subparagraph (1) has been sent.

(3) The Registrar and the person aggrieved may appear before the Council and be legally represented.

(4) The person aggrieved and the Registrar may produce documentary evidence to the General Council, may (subject to subparagraph (5)) call witnesses and may put questions to any person called as a witness.

(5) The person aggrieved and the Registrar shall each, before the beginning of the period of seven days ending with the date fixed for the hearing, produce to the other a list of witnesses to be called at the hearing failing which a witness may not be called except with the consent of the General Council.

Private Hearings

2. The oral hearing shall be in private unless the person aggrieved requests a public hearing.

Postponement of adjournment of Hearing

3.—(1) The General Council, either of their own motion or at the request in writing of the person aggrieved, may postpone a hearing at any time before the beginning of the hearing and may adjourn the proceedings from time to time as they think fit.

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(2) Where a hearing has been postponed or proceedings have been adjourned for more than twenty eight days the Registrar shall send the person aggrieved notice of the date on which the General Council is to hold the postponed hearing or resume the hearing that has been adjourned and the Registrar shall not fix a day for the postponed hearing and the Council shall not resume the hearing on any day earlier than the end of the period of twenty eight days beginning with the date on which the notice has been sent.

Absence of the person aggrieved

4. Where the person aggrieved is neither present nor represented at the hearing, the General Council may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken in accordance with rule 3(1) to serve the notice of the hearing on the person aggrieved.

Procedure at the hearing

5.—(1) The procedure of the General Council at the hearing shall be as follows—

- (a) the Registrar shall present the case in support of the relevant decision and may call and question witnesses and may give evidence on his own behalf;
- (b) The Registrar and any person called on his behalf may be cross-examined by the person aggrieved and, in the case of persons called on his behalf, may be re-examined by the Registrar and the Registrar may give evidence a second time;
- (c) the person aggrieved may present the case against the relevant decision and may call and question witnesses and may give evidence on his own behalf;
- (d) the person aggrieved and any person called on his behalf may be cross-examined by the Registrar and, in the case of persons called on his behalf, may be re-examined by the person aggrieved and the person aggrieved may give evidence a second time;
- (e) the Registrar may address the General Council concerning the relevant decision;
- (f) the person aggrieved may address the General Council concerning the relevant decision.

(2) Where the Registrar or the person aggrieved are legally represented, references in subparagraph (1) to the Registrar or the person aggrieved—

- (a) presenting the case;
- (b) calling or questioning witnesses; or
- (c) addressing the General Council

shall be read as references to the representative of the Registrar or the person aggrieved as the case may be.

(3) Members of the General Council present at the hearing, the legal assessor and the medical assessor may, with the consent of the Chairman of the General Council or, where the Chairman of the General Council is not present at the hearing, the consent of the person who is chairing the hearing, question any person giving evidence at the hearing.

(4) Where it appears to the General Council necessary or expedient either—

- (a) for the proper or expeditious running of the hearing; or
- (b) for the convenience of a witness at the hearing

that the procedure set out in subparagraph (1) should be changed, the Council may, after consulting the legal assessor and giving the Registrar and the person aggrieved or their representatives the opportunity to be heard on the matter, decide to change the procedure and in particular the Council may decide that the order of the calling of the witnesses be different from that set out in subparagraph (1) and that a witness may be recalled to give further evidence.

Decision of the General Council

6.—(1) The General Council shall in private decide whether to dismiss or allow the appeal.

(2) The General Council shall have power to confirm, overturn in whole or in part, or vary the order of the Registrar as it thinks fit.

(3) The decision of the majority of the members of the General Council who are present at the hearing shall be the decision of the Council, but if the votes are equal, the appeal shall be decided in favour of the person aggrieved.

(4) The decision of the General Council shall be given in writing and the Registrar shall—

- (a) as soon as practicable after the hearing, send a copy of the decision and the reasons for the decision to the person aggrieved; and
- (b) inform the person aggrieved of his right to appeal, on a point of law, against the decision of the Council in accordance with section 29(4) of the Act.

Recording of proceedings

7.—(1) The Registrar shall arrange for the proceedings of the General Council at an oral hearing of an appeal to be recorded.

(2) The person aggrieved shall, on application to the Registrar and on payment of a reasonable charge, be sent a transcript of the proceedings.

Given under the official seal of the General Osteopathic Council this day of nineteen hundred and ninety nine.

L.S.

Simon Fielding
Chairman

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under the Osteopaths Act 1993 (“the Act”), approves rules made by the General Osteopathic Council (“GOsC”)—

enabling an osteopath, where the Registrar of the GOsC during his investigation of whether the osteopath’s registration has been fraudulently procured or incorrectly made, proposes to suspend his registration upon being satisfied that it is necessary to do so in order to protect members of the public, to appear before the Investigating Committee of the GOsC to argue against the proposed suspension; and

enabling applicants for registration and those already registered to appeal against adverse decision of the Registrar of the GOsC, the procedure for determining such appeals being set out in the Schedule to the rules.

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