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STATUTORY INSTRUMENTS

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**2000 No. 242**

**OSTEOPATHS**

**The General Osteopathic Council (Health  
Committee) (Procedure) Rules Order of Council 2000**

*Made* - - - - - *9th February 2000*  
*Coming into force* - - - - - *8th March 2000*

Whereas in pursuance of sections 26, 27(3), 28(3) and 35(2) of, and paragraph 21 of the Schedule to, the Osteopaths Act 1993<sup>(1)</sup> the General Osteopathic Council have made the General Osteopathic Council Health 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 (Health Committee) (Procedure) Rules Order of Council 2000 and shall come into force on 8th March 2000.

*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULE

### THE GENERAL OSTEOPATHIC COUNCIL HEALTH COMMITTEE (PROCEDURE) RULES 2000

#### PART I

#### PRELIMINARY

##### **Citation and commencement**

The General Osteopathic Council in exercise of its powers under sections 26, 27(3), 28(3) and 35(2) of and paragraph 21 of the Schedule to the Osteopaths Act 1993<sup>(2)</sup> and of all other powers enabling it in that behalf, hereby makes the following Rules:—

1. These Rules may be cited as the General Osteopathic Council Health Committee (Procedure) Rules 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;

“a case” means a case where it is alleged that the ability of the osteopath to practise as an osteopath is seriously impaired because of his physical or mental condition within the meaning of section 20(1)(d) of the Act;

“the Chairman” means the Chairman of the Health Committee;

“the Committee” means the Health Committee established by section 1(5)(d) of the Act;

“the complainant” means a person who has made an allegation against an osteopath that his ability to practise as an osteopath is seriously impaired by reason of his physical or mental condition as specified by section 20(1)(d) of the Act;

“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 by section 1(5)(b) of the Act;

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

“medical adviser” means, in relation to the osteopath, any registered medical practitioner, whom the osteopath has consulted as a patient in regard to his own health and whom the osteopath elects to treat as his medical adviser for the purpose of proceedings under section 23 of the Act;

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

“the Professional Conduct Committee” means the committee established by section 1(5)(c) of the Act;

“the Screener” means a person appointed in accordance with rules made under section 20 of the Act to give preliminary consideration to complaints 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 by the Solicitor to represent the Council in connection with any such case.

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(2) 1993 c. 21 amended by the Chiropractors Act 1994 (c. 17), Schedule 2.

### **Meetings of the Committee**

3. The Committee shall meet on such days as the Committee may determine and at such time and place as the Chairman may determine.

## **PART II**

### **ARRANGEMENTS FOR THE INITIAL CONSIDERATION OF CASES**

#### **Arrangements for the initial consideration of cases**

- 4.—(1) No case shall be considered by the Committee unless it has been referred to it either—
- (a) by the Investigating Committee; or
  - (b) by the Professional Conduct Committee.

(2) Before considering a case, the Committee shall request the Investigating Committee, or as the case may be the Professional Conduct Committee, to supply to it all the evidence which was before that committee.

(3) Any complaint made directly to the Health Committee shall be immediately referred by the Committee to the Investigating Committee for consideration.

#### **Service of notice**

5. On a referral of a case to the Committee, the Committee shall—
- (a) serve notice on the osteopath concerned of the allegation that has been made together with copies of any relevant documentation and a copy of these Rules; and
  - (b) inform 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 notice of the allegation is sent to him he asks for a hearing; or
    - (ii) the Committee considers that a hearing is desirable.

#### **Review of information and medical examination**

6. After a case has been referred to the Committee the Chairman—
- (a) shall initially review the information and reports from the Investigating Committee or the Professional Conduct Committee on behalf of the Committee and determine whether further information is required; and
  - (b) may—
    - (i) request permission from the osteopath to obtain further reports from his medical advisers;
    - (ii) cause such further enquiries to be made in relation to the matter as he thinks fit, including obtaining a further opinion from a medical assessor on the information or evidence which has been received;
    - (iii) inviting the osteopath to agree before the end of the period of 14 days beginning with the date on which the invitation was given to submit to examination by one or more medical assessors; and
    - (iv) inform the osteopath that it is also open to him to nominate any other medical practitioner to examine him at his expense and report on his fitness to practise.

7.—(1) If the osteopath agrees to submit to an examination under rule 6(b)(iii) the Committee shall make the arrangements for examination.

(2) All reports obtained under rule 6(b) shall be referred to the Committee and supplied to the osteopath.

#### **Action by the Committee following reports of medical examination**

8.—(1) Without prejudice to rule 5(b), where the medical assessors and any medical advisers nominated by the osteopath report unanimously that he—

- (a) is not fit to practise; or
- (b) is not fit to practise except subject to conditions; or
- (c) suffers from a recurring or episodic physical or mental condition which, although at the time of examination is in remission, may be expected in future to render him unfit to practise or unfit to practise except subject to conditions

the Committee shall consider whether it judges the ability of the osteopath to be seriously impaired by reason of his physical or mental condition and shall further consider whether it shall be sufficient to direct that the registration of the osteopath shall be conditional on his compliance with a conditions of practice order under section 23(2)(a) of the Act.

(2) If the Committee considers that such a conditions of practice order will be appropriate it shall so inform the osteopath by letter and—

- (a) invite him to state before the end of the period of 28 days beginning with the date on which the letter was sent whether he would be prepared to comply with any recommendations in the reports as to the management of his case, including any conditions on his practice which the Committee feels appropriate;
- (b) indicate that in that event the Committee would be minded to impose a conditions of practice order and that the matter could be dealt with without the need for a hearing of the case, unless the osteopath requests a hearing;
- (c) advise the osteopath that, if he does not wish to accept the conditions of practice proposed, he has the right (in accordance with rule 5) to appear before the Committee to argue his case and that he is entitled to be legally represented at such a hearing.

#### **Acceptance of recommended conditions of practice order**

9. If within the time limit specified in rule 8(2)(a) above the osteopath indicates that he is willing to accept a conditions of practice order as proposed in rule 8(2)(b) then the Committee shall make an order to this effect in accordance with rules 24 and 25.

#### **Desirability of hearing**

10. Subject to rules 8 and 9 and in the absence of a request from the osteopath for a hearing, as soon as may be after the case has been referred the Committee shall decide whether it is desirable that there should be a hearing of the case.

## PART III

### HEARING BY THE HEALTH COMMITTEE

#### **Decision of Committee to proceed to hearing**

11. If the osteopath asks for a hearing in accordance with rule 5(b)(i) or in the absence of such a request the Committee decides that there should be a hearing of the case, the Committee shall proceed in accordance with rules 12-26; otherwise it shall proceed under rule 24.

#### **Notice of hearing**

12.—(1) The Committee shall send a notice of hearing to the osteopath which shall—

- (a) indicate the physical or mental condition by reason of which it is alleged that his fitness to practise is seriously impaired;
- (b) state the day, time and place at which the Committee will meet to consider the matter; such hearing shall not take place before the end of the period of 28 days beginning with the date on which the notice of hearing is sent;
- (c) indicate that the osteopath may be legally represented and also be accompanied by his medical adviser;
- (d) invite the osteopath to state whether he proposes to attend the hearing;
- (e) inform the osteopath that he may call witnesses in his defence with or without notice;
- (f) invite the osteopath to supply in advance of the hearing any document or report which he may wish to place before the Committee.

(2) The Committee shall send with the notice of hearing copies of any reports or information which it is proposed to present to the Committee other than reports and information of which copies have already been sent to the osteopath.

(3) The Committee shall also identify to the osteopath any document which it is proposed to supplement by the oral evidence of its author at the hearing and shall arrange for statements relating to that evidence to be sent to the osteopath before the beginning of the period of 7 days ending with the date on which the hearing is to be held.

(4) If the osteopath states that he requires a document to be supplemented by the oral evidence of its author, the document shall be presented to the Committee only if the author is called as a witness and is available to be questioned, provided the osteopath gives notice in writing of such a requirement before the beginning of the period of 14 days ending with the date on which the hearing is to be held.

(5) The Committee may at any stage of the proceedings at their discretion either with the consent of the osteopath or if after consultation with the legal assessor it is satisfied that it is desirable to enable it to perform its duty, receive any document a copy of which has not previously been supplied to the osteopath in accordance with the foregoing provisions and whose author has not been called as a witness.

(6) The complainant shall not be entitled to have sight of any medical reports or other confidential information concerning the medical condition of the osteopath.

#### **Postponement of hearing of a case**

13.—(1) The Chairman of the Committee may postpone the hearing to such later date or such later meeting of the Committee as he may determine in accordance with paragraph (2).

(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 fixed for the hearing of the

postponed hearing, which shall not be a date which occurs before the end of the period of 14 days beginning with the day on which the notification is sent.

### **Preliminary circulation of evidence**

**14.** Before the hearing the Committee shall supply to each member of the Committee, and to the legal assessor and the medical assessor chosen to advise the Committee on the case, copies of the notice of hearing, of the information and reports sent to the osteopath, of any medical reports and of any observations or other evidence submitted by or on behalf of the osteopath.

### **Medical assessors**

**15.—**(1) The Chairman shall arrange for one or more medical assessor to attend the hearing.

(2) Such assessors shall be chosen by the Chairman from a list of those approved for this purpose by the Council and they shall perform the duties and functions prescribed for them from time to time in rules made by the Council.

(3) In choosing medical assessors to act in relation to a particular case, the Chairman shall have regard to the nature of the physical or mental condition which is alleged to impair the osteopath's fitness to practice.

### **Opening of hearing**

**16.—**(1) The Committee shall sit in private unless the Committee considers that it is appropriate to hold the hearing or any part of it in public.

(2) The osteopath shall be entitled to be present while his case is considered and may also be legally represented and may be accompanied by his medical adviser.

(3) The Committee shall determine:

- (a) whether the osteopath has failed to reply within 28 days to a notice sent to him;
- (b) whether the osteopath has failed to submit to medical examination.

(4) When the osteopath is neither present nor represented the Committee shall determine whether or not the notice of hearing has been served on the osteopath in accordance with rule 42.

(5) If the Committee is satisfied that the notice has been so served the hearing may proceed if the Committee thinks fit, but if the Committee is not satisfied that the notice has been so served it may—

- (a) if in its opinion all reasonable steps have been taken to serve the notice, proceed with the hearing; or
- (b) if it is of the opinion that further steps should be taken to serve the notice, adjourn the hearing to a later date to allow this to happen.

### **Presentation of the case**

**17.—**(1) If the Committee has decided to proceed with the hearing the Chairman shall invite the Solicitor to open the case and to present the evidence by reason of which it is alleged that the osteopath's fitness to practise is seriously impaired.

(2) If in any case before the opening of the hearing the Solicitor or the osteopath has indicated that he requires that all or part of the information or reports be supported by oral evidence, then the persons on whose testimony or opinions such information or reports depend shall be called as witnesses.

(3) Such witnesses shall be examined by the Solicitor, may be cross-examined by the osteopath or his representative, and may be questioned by the Committee, by any medical assessor and by the legal assessor.

### **Presentation of the osteopath's case**

**18.**—(1) At the conclusion of any oral evidence given as aforesaid the Chairman shall invite the osteopath or his representative to address the Committee and to adduce evidence as to the osteopath's fitness to practise.

(2) Any witness called on behalf of the osteopath shall be examined by the osteopath or his representative, may be cross-examined by the Solicitor and may be questioned by the Committee, by any medical assessor and by the legal assessor.

(3) When any evidence has been called on behalf of the osteopath, including any evidence given by the osteopath, the Chairman shall invite the Solicitor to address the Committee.

(4) The osteopath or his representative may then address the Committee for a second time.

### **Further Evidence**

**19.**—(1) If the osteopath or his representative indicates at the hearing (not having given notice prior thereto) that he wishes any document presented to the Committee to be supplemented by oral evidence from its author, the Committee shall consult the legal assessor as to whether in the interests of justice the hearing should be adjourned in order to permit the evidence to be given or whether the hearing should proceed on the basis of the documents before the Committee.

(2) When a written statement has been presented to the Committee under the provisions of rule 12 without its author being available and the Committee is of the opinion that it should be supplemented by oral evidence, the hearing may be adjourned to allow the author to be called as a witness and on subsequently resuming the hearing, the Committee may disregard the document unless the author gives oral evidence.

(3) Except with the agreement of the osteopath, no hearing shall be recommenced under these provisions on a date which occurs before the end of the period of 28 days beginning with the date on which notice of resumption is given to the osteopath.

### **Adjournment of Proceedings**

**20.** At the conclusion of proceedings under rules 16 to 19, the Committee may formally adjourn the case for a period of not less than 28 days in order to obtain further medical reports or other information as to the physical or mental condition of the osteopath, or in relation to his or her fitness to practise, or with a view to resuming consideration of the osteopath's fitness to practise at a later date and in such cases the provisions of Part IV of these Rules shall apply to the resumed hearing.

### **Determination of the Committee**

**21.**—(1) If the Committee decides not to adjourn the case under rule 20, it shall consider and determine whether or not it judges the ability of the osteopath to practise to be seriously impaired because of his physical or mental condition.

(2) In reaching its judgement, the Committee shall be entitled to take account of the osteopath's current physical or mental condition, or a continuing and episodic condition, or a condition which, although currently in remission, may be expected to cause recurrence of a serious impairment.

(3) Where the osteopath has refused or failed to submit to medical examination after an invitation by the Committee, the Committee shall be entitled to find that the osteopath's ability to practise is

seriously impaired on the basis of the information before them and the osteopath's refusal or failure to submit to medical examination.

(4) If the osteopath's ability to practise is judged to be seriously impaired the Committee shall then consider and determine whether it shall be sufficient to direct that the registration of the osteopath shall be conditional on his compliance, during such period not exceeding three years as the Committee may specify, with such conditions as the Committee may think it necessary to impose for the protection of members of the public.

(5) If the Committee so determines it shall then consider and decide what conditions shall be imposed and the Committee may impose more than one condition if that is considered necessary.

#### **Direction for suspension of registration**

**22.** If the Committee decides that it is not sufficient to impose conditions on an osteopath's registration it shall direct that the osteopath's registration be suspended for a period determined by the Committee but not exceeding three years (a suspension order as defined by section 23(2)(b) of the Act).

#### **Announcement of determination**

**23.** The Chairman shall announce the decision of the Committee and its reasons for reaching that decision in such terms as the Committee may approve and if appropriate the Committee will make a conditions of practice order or a suspension order, which shall not take effect before the end of the period 28 days beginning with the date on which the osteopath is notified of the Committee's decision, unless immediate suspension is imposed under rule 26(1).

#### **Determination on basis of written material**

**24.** If the Committee decides that it is not desirable that there should be a hearing of the case and the osteopath has not requested a hearing, the Committee shall consider the case on the basis of the written material provided to it and shall determine it in accordance with rules 21 and 22.

#### **Notification of determination**

**25.** The Committee shall notify the osteopath and the complainant in writing of the determination of the Committee and the reasons for the decision, and also notify the osteopath of his right of appeal under section 30 of the Act.

#### **Interim Suspension Orders**

**26.—(1)** Where a case has been referred to the Committee and

- (a) the Committee has not reached a decision on the matter; or
- (b) the Committee has decided to impose a suspension order under rule 22

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 the date, time and place so fixed.

(3) The Committee shall further notify the osteopath of his right to appear before the Committee and to be legally represented.

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

(5) A medical assessor may be appointed by the Chairman to be present at any hearing under this rule.

(6) Where the osteopath does not appear and is not represented, the provisions of rule 16(4) and (5) shall apply, and, if the Committee decides to proceed with the hearing—

- (a) the Solicitor shall be invited to present the case to the Committee and call such evidence as he wishes to justify an interim suspension order;
- (b) the osteopath shall have the right to cross-examine any witness called by the Solicitor who may in turn re-examine such witness;
- (c) the osteopath may then present his own case against the making of such an order by calling such evidence as he wishes;
- (d) the Solicitor shall have the right to cross-examine such witness on behalf of the Council and the osteopath may in turn re-examine such witness;
- (e) the Solicitor and the osteopath may address the Committee; and
- (f) members of the Committee, the legal adviser, and the medical assessor may, with the consent of the Chairman, question a person giving evidence at the hearing.

(7) Save as set out in this rule, the procedure of the Committee in deciding whether to impose an interim suspension order shall be as it may determine.

(8) 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 and confirmed 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**

**27.**—(1) The Committee may on the written application of the osteopath revoke an interim suspension order made under rule 26(1) on the grounds stated in section 25 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 same procedure as set out in rule 26(3)–(8) save that the osteopath shall be the first invited to present his application and his witnesses and the Solicitor shall then have the right to cross-examine witnesses and to present his own case thereafter.

#### **Cases referred by the Professional Conduct Committee: osteopath's ability to practise not found to be seriously impaired**

**28.** If, in any case referred to it by the Professional Conduct Committee, the Committee judges that the ability to practise of the osteopath is not seriously impaired because of his physical or mental condition it shall remit that case to that Committee and notify the osteopath thereof.

## **PART IV**

### **RESUMED AND REVIEW HEARINGS OF THE HEALTH COMMITTEE**

#### **Provision for resumed hearings**

**29.**—(1) Where the Committee has decided to adjourn the proceedings under rule 20 it shall, when announcing such a decision, state that it will resume consideration of the case at a further meeting on a specified date.

(2) The Committee may also at the same time indicate the need for further medical examinations and reports, including reports from medical practitioners involved in the treatment or supervision of the osteopath following the adjournment, and any other relevant information as to the osteopath's fitness to practise.

(3) The Committee may also invite the osteopath to submit to examination by any medical assessor chosen by or on behalf of the Committee.

(4) The Committee may, at its discretion and subject to the osteopath's right to an oral hearing in any event under rule 33(1), decide to consider only written testimony at a resumed hearing, or oral testimony in which case the procedures for conducting the original hearing will be followed.

(5) If in any case where the Committee has adjourned a case under rule 20, it appears to the Committee that it should resume consideration of the case at an earlier meeting or date than that specified under paragraph (1) the Committee may notify the osteopath that the Committee will resume consideration of the case at such earlier meeting or date as the Chairman shall determine and will further specify the date, time and place of such resumed hearing.

#### **Direction for resumed and review hearings**

**30.**—(1) The Committee may review a conditions of practice or suspension order at any time at its own discretion and must do so—

- (a) before the beginning of the period of three months ending on the date on which a condition in a conditions of practice order or suspension order is to cease to have effect;
- (b) on the written application of the osteopath, save that where an osteopath has made a previous application which has been refused the Committee shall not entertain a further such application unless it is made after the end of the period of 12 months beginning with the date on which the previous application was received by the Committee.

(2) Without prejudice to the generality of the foregoing paragraph, where in any case the Committee has imposed a conditions of practice order and it appears from information subsequently received that the osteopath is in a material respect not complying with a condition in that order the Committee may exercise its powers under the foregoing paragraph.

(3) Before exercising its powers under paragraph (1) or (2) above the Committee may invite the osteopath to submit to medical examination.

#### **Notice of resumed and review hearings**

**31.**—(1) Where the Committee has adjourned a case under rule 20 or proposes to review a conditions of practice order or a suspension order the Committee shall send to the osteopath a notice which shall—

- (a) specify the date, time and place at which the proceedings are to be resumed or the review is to be held and invite him to appear;
- (b) in any case where the Committee has exercised its powers under rule 30(1) and (2) state the circumstance under which it has exercised those powers;
- (c) if the Committee has so directed, invite the osteopath to submit to examination by the medical assessors chosen by the Committee and if the osteopath so elects by another medical practitioner of his own choosing and at his expense;
- (d) if the Committee has so directed invite the osteopath to furnish the names and addresses of medical practitioners or other persons to whom the Committee will be able to apply for information as to their knowledge of his or her fitness to practise since the time of the original hearing;

- (e) indicate that the osteopath may be legally represented and also be accompanied by his medical adviser;
- (f) invite the osteopath to state whether he proposes to attend the resumed or review hearing;
- (g) inform the osteopath that he may call witnesses in his defence with or without notice;
- (h) invite the osteopath in advance of the resumed or review hearing to supply any document or report which he may wish to place before the Committee.

(2) Except with the agreement of the osteopath the proceedings shall not be resumed or the review held before the end of the period of 28 days beginning with the day on which the notice of the resumed or review hearing is sent.

#### **Medical assessors at resumed and review hearings**

**32.** In choosing medical assessors to assist the Committee at any resumed or review hearing the Chairman shall have regard to any opinion previously expressed by the Committee as to the nature of the matters on which medical advice would be useful.

#### **Procedure at resumed and review hearings**

**33.—(1)** An osteopath may elect to give oral evidence, to call witnesses and to be legally represented at a resumed or review hearing and the proceedings shall then be conducted according to the procedure prescribed for the consideration of oral evidence at the earlier hearing.

(2) The Committee shall determine a case at a resumed or review hearing in accordance with rules 21 to 25.

#### **Application by osteopath for a review hearing**

**34.** An application under rule 30(1)(b) must be made in writing to the Registrar.

#### **The validity of proceedings**

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

## **PART V**

### **GENERAL**

#### **Cancellation of hearing**

**36.—(1)** Where after an allegation has been referred to the Committee for consideration it appears to the Committee that such consideration cannot owing 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 try to ascertain the views of the complainant.

(2) The Committee shall not be required to obtain the consent of the osteopath under paragraph (1) where such consent could not be obtained owing to the osteopath's death, or mental or physical incapacity.

(3) As soon as any decision is reached, the Committee shall conclude the case and give notice of its determination to cancel a hearing to the osteopath and to the complainant, if any.

### **Suspension of proceedings**

**37.**—(1) At any stage during the proceedings the Chairman shall have the power to suspend the proceedings before the Committee.

(2) When the proceedings are so suspended the Committee shall send written notice of the date, time and place of any recommenced hearing to the osteopath, and such hearing shall not take place before the end of the period of 28 days beginning with the day on which the notice of hearing is sent.

### **Deliberation in private**

**38.** The Committee may deliberate in private at any time and for any purpose during any proceedings.

### **Evidence**

**39.**—(1) Subject to the provisions of rule 17(2) and (3), the written evidence sent to the osteopath in accordance with rule 12(2) should be admissible in documentary form without the necessity of calling witnesses to give that evidence orally.

(2) Subject to paragraph (1) above, the Committee may at its discretion at any hearing receive oral or documentary or other evidence of any fact or matter which appears to it relevant to the inquiry into the case before it, provided that where any fact or matter is tendered as evidence which would not be admissible as such if the proceedings were criminal proceedings in the United Kingdom the Committee shall not receive it unless after consultation with the legal assessor it is satisfied that its reception is necessary to enable it to perform its duty and that the interests of justice will not thereby be prejudiced.

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

(4) 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 the Committee shall pay the necessary expenses of attendance.

(5) 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.

(6) All parties to the proceedings may seek a summons of the Committee requiring persons to attend and give evidence or to produce documents before the Committee.

### **Legal Representation**

**40.** 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.

### **Referral to the Professional Conduct Committee**

**41.**—(1) Where it appears to the Committee that the allegation which it is considering would be better dealt with by the Professional Conduct Committee, the Committee may refer the allegation to the Professional Conduct Committee for consideration.

(2) If, following a referral under this rule, the Professional Conduct Committee subsequently notifies the Committee that it does not propose to consider the allegation the Committee shall resume its consideration of it and shall conclude it.

(3) If, following a referral under this rule, the Professional Conduct Committee certifies to the Committee that it has dealt with the allegation, the Committee shall cease to exercise its functions in relation to it.

### **Service of documents**

**42.**—(1) In these Rules a reference to the sending of a notice or other communication required by these Rules to be served on an osteopath is a reference to delivering it to him or sending it to him by Registered Post or by the Recorded Delivery system to his address in the Register or if his last known address differs from the address in the Register then to his last known address.

(2) Where such notice is sent by Registered Post or Recorded Delivery service it shall be treated as having been sent on the day it was posted.

(3) Where personally delivered then it shall be treated as having been delivered when it is handed to the osteopath.

### **Notes and transcripts of hearings**

**43.**—(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.

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## **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 Health Committee of the Council in respect of cases where an osteopath's fitness to practise is called into question on grounds of a physical or mental condition.