

SCHEDULE

The General Osteopathic Council (Constitution of the Statutory Committees) Rules 2009
The General Osteopathic Council makes the following Rules in exercise of the powers conferred by section 35(2) of, and paragraphs 16(2) and (3), 17(4), 25, 30, 34 and 38 of the Schedule to, the Osteopaths Act 1993.

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the General Osteopathic Council (Constitution of the Statutory Committees) Rules 2009 and—

- (a) apart from rule 12(h), come into force on 1st April 2009;
- (b) rule 12(h) comes into force on the coming into force of section 44(1) of the Safeguarding Vulnerable Groups Act 2006⁽¹⁾ (registers: power to apply for vetting information).

(2) In these Rules—

“the Act” means the Osteopaths Act 1993;

“final outcome”, in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought; or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“Fitness to Practise Committee” means the Investigating Committee, the Professional Conduct Committee or the Health Committee;

“lay person” means a person who is not and never has been a registered osteopath and who does not hold a qualification which would entitle them to apply for registration under the Act;

“licensing body” means any body, other than the General Council, anywhere in the world that licenses or regulates any profession;

“ordinary member”, in relation to a statutory committee, means a member of that committee who is not a co-opted member; and

“spent conviction” means—

- (a) in relation to a conviction by a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974⁽²⁾; or
- (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978⁽³⁾.

Appointments Commission

2. The General Council may enter into arrangements with the Appointments Commission for the Appointments Commission to assist the General Council in connection with the exercise of any function relating to the appointment of members of the statutory committees.

(1) 2006 c.47.

(2) 1974 c. 53.

(3) S.I. 1978/1908 (N.I. 27).

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Approval and terms of office of co-opted members of statutory committees

3.—(1) The approval of the co-option of a member to a statutory committee shall be sought by the submission by the Committee concerned of a request for approval to the General Council, and that request shall be accompanied by—

- (a) a curriculum vitae of the proposed member; and
- (b) an explanation of the reasons for the request for the proposed member's co-option.

(2) Approval shall be by way of a resolution to that effect passed at a meeting of the General Council.

(3) The term of office of the co-opted member shall commence on the day after the day on which that resolution is passed.

(4) The duration of terms of office of any co-opted members of the statutory committees shall be determined by the committee co-opting them (subject to paragraph 17(3) of the Schedule to the Act).

Composition and quorum of the Education Committee

4.—(1) The membership of the Education Committee shall consist of—

- (a) 5 members of the General Council;
- (b) 4 members who are not members of the General Council; and
- (c) any members that the Education Committee co-opts, if they are approved by the General Council in accordance with rule 3 and subject to a maximum number of 5 co-opted members.

(2) The Education Committee members—

- (a) mentioned in paragraph (1)(a) shall be appointed by the chair of the General Council; and
- (b) mentioned in paragraph (1)(b) shall be appointed by the General Council.

(3) Of the Education Committee members who are also members of the General Council—

- (a) 3 must be lay persons; and
- (b) 2 must be registered osteopaths.

(4) Subject to paragraph (5), the terms of office of members of the Education Committee shall be determined by the General Council or the chair (whichever does the appointing), on appointment, but no term of office—

- (a) shall be longer than 4 years; or
- (b) in the case of a Committee member who is also a member of the General Council, shall be longer than the member's term of office on the General Council.

(5) No person may serve on the Education Committee for longer than an aggregate of 8 years, and for these purposes, service as a member of the Education Committee before 1st April 2005 is to be discounted.

(6) The quorum of the Education Committee shall be 5 of which:

- (a) at least one must be a lay person and one a registered osteopath; and
- (b) at least 2 must be members of the General Council and 2 must be persons who are not members of the General Council.

Chairing of the Education Committee

5.—(1) One of the lay members of the Education Committee who is also a member of the General Council shall be appointed by the General Council to be the chair of the Committee.

(2) If at any meeting of the Education Committee the chair is absent, the members of the Committee at that meeting may nominate from amongst the members who are present a lay person to chair that meeting.

(3) If, for any reason—

- (a) the General Council is on notice that the chair of the Education Committee is likely—
 - (i) to be absent for more than one meeting of the Education Committee,
 - (ii) to be unavailable to perform the duties of a chair for more than one month; or
- (b) the office of chair is vacant,

the General Council may nominate a member (“deputy chair”) to serve as chair during the absence or unavailability of the chair or the vacancy.

(4) A member of the Education Committee serving as deputy chair shall cease to be deputy chair—

- (a) in the case of—
 - (i) the absence or unavailability of the chair, on the date which the chair notifies the General Council in writing as the date on which they are able to resume their duties, or
 - (ii) the office of chair being vacant, once the vacancy is filled;
- (b) if the member ceases to be a member of the Education Committee;
- (c) if the member resigns as deputy chair, which the member may do at any time by a notice in writing to the General Council;
- (d) if the member’s membership of the General Council is provisionally suspended by the General Council or suspended by the Privy Council; or
- (e) if the General Council votes to terminate the member’s appointment as deputy chair.

(5) A person serving as a chair of the Education Committee shall cease to be chair—

- (a) on resigning as chair, which that person may do at any time by notice in writing to the General Council;
- (b) if that person ceases to be a member of the Committee;
- (c) if the General Council votes to terminate the person’s appointment as chair.

(6) The person serving as a chair (or, where appropriate deputy chair) shall not be entitled to vote in a vote of the General Council to decide whether or not to terminate the person’s appointment under this rule.

Composition and quorum of the Investigating Committee

6.—(1) The membership of the Investigating Committee shall consist of not more than 15 persons who are lay persons and registered osteopaths appointed to the Committee by the General Council.

(2) Members of the Investigating Committee may attend only the proceedings of the Committee that they are invited to attend by the Registrar, or by a person duly authorised on the Registrar’s behalf to invite them.

(3) If the members of the Investigating Committee who are attending particular proceedings propose to co-opt a member for the purposes of consideration of those proceedings, approval for the co-option must be sought in accordance with rule 3.

(4) No ordinary member of the Investigating Committee may also be a member of the General Council.

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(5) Subject to paragraph (6), the terms of office of ordinary members of the Investigating Committee shall be determined by the General Council, on appointment, but no term of office shall be longer than 4 years.

(6) No person may serve on the Investigating Committee for longer than an aggregate of 8 years, and for these purposes, service as a member of the Committee before 1st April 2005 is to be discounted.

(7) The panel of ordinary members and any co-opted members attending particular proceedings of the Investigating Committee may perform any functions of the Committee that are relevant to those proceedings.

(8) The quorum of the Investigating Committee shall be 5 of which at least 2 must be lay persons and 2 registered osteopaths.

Chairing of the Investigating Committee

7.—(1) The General Council shall appoint, from amongst the lay persons who are members of the Investigating Committee, persons to chair proceedings of the Committee (“panel chairs”).

(2) Of those persons, the General Council shall designate one panel chair as the chair of the Investigating Committee.

(3) If the Registrar or the person duly authorised on the Registrar’s behalf (“the inviter”) does not invite the chair to attend particular proceedings of the Committee—

- (a) the inviter must invite a panel chair to those proceedings; and
- (b) that panel chair, subject to paragraph (4), shall chair the proceedings in place of the chair of the Investigating Committee.

(4) If at any meeting of the Investigating Committee, the panel chair invited to chair the proceedings is absent, the members of the Committee at that meeting may nominate from amongst the members who are present a lay person to chair that meeting.

(5) A person serving as chair or panel chair of the Investigating Committee shall cease office—

- (a) on resigning as chair or panel chair (or both), which that person may do at any time by notice in writing to the General Council;
- (b) if that person ceases to be a member of the Investigating Committee; or
- (c) if the General Council votes to terminate the person’s appointment as chair or panel chair (or both).

Composition and quorum of the Professional Conduct Committee

8.—(1) The membership of the Professional Conduct Committee shall consist of not more than 18 persons who are lay persons and registered osteopaths appointed to the Committee by the General Council.

(2) Members of the Professional Conduct Committee may attend only the proceedings of the Committee that they are invited to attend by the Registrar, or by a person duly authorised on the Registrar’s behalf to invite them.

(3) If the members of the Professional Conduct Committee who are attending particular proceedings propose to co-opt a member for the purposes of consideration of those proceedings, approval for the co-option must be sought in accordance with rule 3.

(4) No ordinary member of the Professional Conduct Committee may also be a member of the General Council or the Investigating Committee.

(5) Subject to paragraph (6), the terms of office of ordinary members of the Professional Conduct Committee shall be determined by the General Council, on appointment, but no term of office shall be longer than 4 years.

(6) No person may serve on the Professional Conduct Committee for longer than an aggregate of 8 years, and for these purposes, service as a member of the Committee before 1st April 2005 is to be discounted.

(7) The panel of ordinary members and any co-opted members attending particular proceedings of the Professional Conduct Committee may perform any functions of the Committee that are relevant to those proceedings.

(8) The quorum of the Professional Conduct Committee shall be 3 of which at least one must be a lay person and one a registered osteopath.

Chairing of the Professional Conduct Committee

9.—(1) The General Council shall appoint, from amongst the lay persons who are members of the Professional Conduct Committee, persons to chair proceedings of the Committee (“panel chairs”).

(2) Of those persons, the General Council shall designate one panel chair as the chair of the Professional Conduct Committee.

(3) If the Registrar or the person duly authorised on the Registrar’s behalf (“the inviter”) does not invite the chair to attend particular proceedings of the Committee—

- (a) the inviter must invite a panel chair to those proceedings; and
- (b) that panel chair, subject to paragraph (4), shall chair the proceedings in place of the chair of the Professional Conduct Committee.

(4) If at any meeting of the Professional Conduct Committee, the panel chair invited to chair the proceedings is absent, the members of the Committee at that meeting may nominate from amongst the members who are present a lay person to chair that meeting.

(5) A person serving as chair or panel chair of the Professional Conduct Committee shall cease office—

- (a) on resigning as chair or panel chair (or both), which that person may do at any time by notice in writing to the General Council;
- (b) if that person ceases to be a member of the Professional Conduct Committee; or
- (c) if the General Council votes to terminate the person’s appointment as chair or panel chair (or both).

Composition and quorum of the Health Committee

10.—(1) The membership of the Health Committee shall consist of not more than 18 persons who are lay persons and registered osteopaths appointed to the Committee by the General Council.

(2) Members of the Health Committee may attend only the proceedings of the Committee that they are invited to attend by the Registrar, or by a person duly authorised on the Registrar’s behalf to invite them.

(3) If the members of the Health Committee who are attending particular proceedings propose to co-opt a member for the purposes of consideration of those proceedings, approval for the co-option must be sought in accordance with rule 3.

(4) No ordinary member of the Health Committee may also be a member of the General Council or the Investigating Committee.

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(5) Subject to paragraph (6), the terms of office of ordinary members of the Health Committee shall be determined by the General Council, on appointment, but no term of office shall be longer than 4 years.

(6) No person may serve on the Health Committee for longer than an aggregate of 8 years, and for these purposes, service as a member of the Committee before 1st April 2005 is to be discounted.

(7) The panel of ordinary members and any co-opted members attending particular proceedings of the Health Committee may perform any functions of the Committee that are relevant to those proceedings.

(8) The quorum of the Health Committee shall be 3 of which at least one must be a lay person and one a registered osteopath.

Chairing of the Health Committee

11.—(1) The General Council shall appoint, from amongst the lay persons who are members of the Health Committee, persons to chair proceedings of the Committee (“panel chairs”).

(2) Of those persons, the General Council shall designate one panel chair as the chair of the Health Committee.

(3) If the Registrar or the person duly authorised on the Registrar’s behalf (“the inviter”) does not invite the chair to attend proceedings of the Committee—

- (a) the inviter must invite a panel chair to those proceedings; and
- (b) that panel chair, subject to paragraph (4), shall chair the proceedings in place of the chair of the Health Committee.

(4) If at any meeting of the Health Committee, the panel chair invited to chair the proceedings is absent, the members of the Committee at that meeting may nominate from amongst the members who are present a lay person to chair that meeting.

(5) A person serving as chair or panel chair of the Health Committee shall cease office—

- (a) on resigning as chair or panel chair (or both), which that person may do at any time by notice in writing to the General Council;
- (b) if that person ceases to be a member of the Health Committee; or
- (c) if the General Council votes to terminate the person’s appointment as chair or panel chair (or both).

Disqualification from appointment

12. A person is disqualified from appointment as a member of the statutory committees if that person—

- (a) has been at any time convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction;
- (b) has at any time been convicted of an offence in the United Kingdom, and—
 - (i) the final outcome of the proceedings was a sentence of imprisonment or detention, and
 - (ii) the conviction is not a spent conviction;
- (c) has at any time been removed—
 - (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—

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- (aa) for which the person was responsible or to which the person was privy, or
- (bb) which the person by their conduct contributed to or facilitated, or
- (ii) under—
 - (aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(4) (powers of Court of Session to deal with management of charities), or
 - (bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(5) (powers of the Court of Session),from being concerned with the management or control of any body;
- (d) has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;
- (e) at any time has been adjudged bankrupt or sequestration of the person’s estate has been awarded, and—
 - (i) the person has not been discharged, or
 - (ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(6) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989(7) (which relate to bankruptcy restrictions orders and undertakings);
- (f) has at any time made a composition or arrangement with, or granted a trust deed for, the person’s creditors and the person has not been discharged in respect of it;
- (g) is subject to—
 - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(8),
 - (ii) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(9) (company directors disqualification),
 - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(10), or
 - (iv) an order made under section 429(2) of the Insolvency Act 1986(11) (disabilities on revocation of a county court administration order);
- (h) has been included by—
 - (i) the Independent Barring Board in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006(12) or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(13)), or
 - (ii) the Scottish Ministers in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007(14));

(4) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), Schedule 4, paragraph 7(b).

(5) 2005 asp 10.

(6) 1986 c.45; Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

(7) S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).

(8) 1986 c.46.

(9) S.I. 1989/2404 (N.I. 18).

(10) S.I. 2002/3150 (N.I. 4); relevant amendments were made by S.I. 2005/1454 (N.I. 9).

(11) Section 429(2) was amended by the Enterprise Act 2002, Schedule 23, paragraph 15.

(12) 2006 c.47.

(13) S.I. 2007/1351 (N.I. 11).

(14) 2007 asp 14.

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- (i) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—
 - (i) the person's suspension from a register held by the licensing body, and that suspension has not been terminated,
 - (ii) the person's erasure from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body, or
 - (iii) a decision that had the effect of only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;
- (j) has at any time been subject to any investigation or proceedings concerning the person's conduct, professional competence or health by the General Council, where the final outcome was that—
 - (i) the person's registration in the register was suspended and the order imposing that suspension has not been lifted,
 - (ii) the person's name was removed from the register (for a reason connected to the person's fitness to practise), or
 - (iii) the person's registration in the register was made subject to an order imposing conditions with which the person must comply and that order has not been lifted;
- (k) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made—
 - (i) in the course of which the person's registration was suspended and that suspension has not been terminated, or
 - (ii) the final outcome of which was the removal of the person's entry in the register;
- (l) is or has been subject to any investigation or proceedings concerning the person's fitness to practise by—
 - (i) any licensing body, or
 - (ii) the General Council,and the General Council is satisfied that the person's membership of the statutory committees would be liable to undermine public confidence in the regulation of registered osteopaths; or
- (m) has at any time been convicted of an offence elsewhere than in the United Kingdom and the General Council is satisfied that the person's membership of the statutory committees would be liable to undermine public confidence in the regulation of registered osteopaths.

Termination of appointment of members of the statutory committees

13.—(1) A member of a statutory committee shall be removed from office by the General Council forthwith, if—

- (a) the member resigns, which a member may do at any time by a notice in writing to the General Council;
- (b) in the case of—
 - (i) a member appointed in part because they were a registered osteopath, that member's registration with the General Council lapses, or
 - (ii) a member appointed in part because they were a lay person, that member ceases to be a lay person;

- (c) the person becomes a person of the type mentioned in rule 12(a), (b) or (e) to (h) (irrespective of whether or not they subsequently cease to be a person of the type mentioned in those provisions);
 - (d) the member becomes a person of the type mentioned in rule 12(c) or (d);
 - (e) in the case of a registered osteopath, the member has become the subject of any investigation or proceedings concerning the person's conduct, professional performance or health by the General Council, the final outcome of which is that—
 - (i) the member's registration in the register is suspended by virtue of a suspension order,
 - (ii) the member's name is removed from the register, or
 - (iii) the person's registration in the register has been made subject to a conditions of practice order;
 - (f) in the case of a registered osteopath, the member has become the subject of any investigation or proceedings relating to an allegation that his entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the removal of the member's entry in the register;
 - (g) the General Council is satisfied that the member's level of attendance at proceedings of the statutory committee falls below a minimum level of attendance acceptable to the General Council, having regard to—
 - (i) any recommended minimum levels of attendance that the General Council has set in its standing orders, and
 - (ii) whether or not there were reasonable causes for the member's absences;
 - (h) the General Council is satisfied that the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training that apply to that member and which the General Council has included in its standing orders;
 - (i) the General Council is satisfied that the member is no longer able to perform their duties as a member of the statutory committee because of adverse physical or mental health;
 - (j) the General Council is satisfied that the member's continued membership of the statutory committee would be liable to undermine public confidence in the regulation of registered osteopaths.
- (2) A member who becomes, or may be about to become, a person to whom paragraph (1)(b) to (d) applies must notify the General Council in writing of that fact as soon as the person becomes aware of it.
- (3) Any member or employee of the General Council may notify the General Council if they are of the view that the General Council may need to exercise its functions under paragraph (1).

Suspension of members of the statutory committees

- 14.—(1)** The General Council may suspend a member from a statutory committee by a notice in writing served on the member—
- (a) if the General Council has reasonable grounds for suspecting that the member has become a person to whom rule 13(1)(b)(ii) to (d) applies, for the purposes of determining whether or not the member has become such a person;
 - (b) while the General Council is considering whether or not it is satisfied as to the matters set out in rule 13(1)(g) to (j);
 - (c) if the member is subject to any investigation or proceedings concerning his fitness to practise by—
 - (i) any licensing body, or

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(ii) the General Council,

and the General Council is satisfied that it would not be appropriate for the member to continue to participate in the work of the statutory committee while the investigation or proceedings concerning the person's fitness to practise is or are ongoing;

- (d) if the member is subject to any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the General Council is satisfied that it would not be appropriate for the member to continue to participate in the work of the statutory committee while the investigation or proceedings is or are ongoing;
- (e) if the person is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or elsewhere than in the United Kingdom relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—
 - (i) either—
 - (aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment or detention, and
 - (ii) the General Council is satisfied that it would not be appropriate for the person to continue to participate in the work of the statutory committee while the investigation or proceedings is or are ongoing.

(2) The General Council shall suspend from office a member of a statutory committee by a notice in writing served on the member if the member is the subject of an order under section 24 of the Act (interim suspension powers of the Professional Conduct Committee and the Health Committee).

(3) The notice in writing under paragraph (1) or (2) shall set out the reasons for the suspension and the duration of the period of suspension, which shall (in the first instance) not be for more than 6 months.

(4) The General Council—

- (a) may at any time review a suspension of a member of a statutory committee by it; and
- (b) shall review any suspension of a member of a statutory committee by it after 3 months from the start of the period of suspension, if requested to do so by the suspended person.

(5) Following a review, the General Council may—

- (a) terminate the suspension;
- (b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.

(6) The General Council shall notify the suspended member of a statutory committee in writing of the outcome of any review and that notice shall include the reasons for any decision taken.

Effect of vacancies etc. on the validity of proceedings

15.—(1) The validity of any proceedings of a statutory committee shall not be affected by—

- (a) any vacancy among its members;
- (b) any defect in the appointment of any of its members;
- (c) a member whom the General Council must remove from the committee under rule 13(1) (b) to (f) participating in the proceedings;

- (d) a member whom the General Council has removed under rule 13(1) having participated in the proceedings; or
- (e) a member who has been suspended by the General Council under rule 14(1) or (2) having participated in the proceedings.

(2) Notwithstanding paragraph (1)(c), a member of a statutory committee whom the General Council must remove from a committee under rule 13(1)(b) to (f) is not entitled to participate in proceedings of the committee, pending the member's removal from the committee by the General Council.

Transitional arrangements

16.—(1) Subject to paragraph (2), where the composition of any Fitness to Practice Committee that is considering a case is altered by this Order, where the Registrar so directs, the composition, quorum and chairing arrangements for that Committee for its further consideration of that case shall be its composition, quorum and chairing arrangements as of 31st March 2009.

(2) A direction under paragraph (1) may specify that the composition, quorum and chairing arrangements of the Fitness to Practise Committee is only to be altered by that direction for a particular stage in its further consideration of that case.

(3) If a Fitness to Practise Committee that is considering a case by virtue of a direction under paragraph (1) proposes to adopt additional members, approval must be sought in accordance with rule 3.

(4) If, on 1st April 2009, the Education Committee has not been appointed in accordance with rule 4, the persons who were members of that Committee on 31st March 2009 may, with the approval of the Registrar, continue to exercise the functions of that Committee pending the appointment of the Committee in accordance with rule 4.