

EXPLANATORY MEMORANDUM TO
THE GENERAL CHIROPRACTIC COUNCIL (CONSTITUTION OF THE
STATUTORY COMMITTEES) RULES ORDER OF COUNCIL 2009

2009 No. 26

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The Rules (“the 2009 Rules”) approved by this Order of the Privy Council revise the constitutional arrangements for the Statutory Committees of the General Chiropractic Council (GCC).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The Chiropractors Act 1994 (“the 1994 Act”) established a number of committees (the statutory committees) of the GCC: the Professional Conduct Committee, the Health Committee, the Investigating Committee, and the Education Committee. The constitutions of these committees used to be set out in part in the General Chiropractic Council (Constitution and Procedure) Rules 1999 (“the 1999 Rules”) and in part in Part 2 of Schedule 1 to the 1994 Act.
 - 4.2 Amendments were recently made to the 1994 Act by the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 (SI 2008/1774: “the 2008 Order”). Notably, the 2008 Order provided for less of the constitution of each statutory committee to be set out in the 1994 Act and more to be set out in rules made by the GCC but subject to Privy Council approval. The 2008 Order also contained the revocation of the 1999 Rules.
 - 4.3 The 2008 Order also provided for new constitutional arrangements for the council itself. The GCCs own constitution is now set out in a new constitution Order, The General Chiropractic Council (Constitution) Order 2008 (S.I. 2008/3047) (“the Council Constitution Order”), which comes into force, like the 2009 Rules, on 9th February 2009. The 2008 Rules are therefore part of a package of new governance arrangements for the GCC that come into force on that date.
5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The White Paper *Trust, Assurance and Safety* put forward a number of reforms to the United Kingdom's system for the regulation of health care professionals. It proposed a number of changes to the constitutional arrangements for the Health Professions' Regulators, such as the GCC. These reforms included a move to smaller Councils, and reforming governance provisions to allow Health Professions' Regulators to act with greater autonomy in terms of their internal procedures. This move has since been made possible by the amendments to the 1994 Act made by the 2008 Order.

7.2 The 2009 Rules set out the constitutional arrangements for all of the GCCs Statutory Committees. They make provision with regard to the composition, quora and chairing arrangements for each committee, the criteria for appointment of committee members, and the criteria for suspending and removing members from office. There are new criteria for the disqualification, suspension and removal of statutory committee members. These are similar, although not identical, to the criteria that have already been included in the Council Constitution Order in relation to the appointment of members to the Council, and are also similar to those that have also been put in place for the Nursing and Midwifery Council and its statutory committees, and for the General Medical Council. Accordingly, they are indicative of a significant degree of consensus on the appropriate grounds for restricting membership of Health Professions' Regulators and their statutory committees.

7.3 The 1994 Act requires that each statutory committee be made up not only of ordinary members appointed by the GCC Council, but also, potentially, of co-opted members whom the statutory committees may put forward themselves (subject to confirmation by the GCC Council). The provisions on co-option are intended, essentially, to do no more than reflect the underlying statutory framework. Given the separation of function that has been achieved between the GCC Council and its Investigating, Professional Conduct and Health Committees by virtue of the current reforms, there would be no expectation that any member of Council would be co-opted to any of those committees.

7.4 As regards the ordinary membership of the statutory committees, the smallest change is to the Education Committee: half the ordinary

members of the committee will be Council members rather than the balance being six to four. This is intended ensure that the committee is understood not to be dominated by concerns that are internal to the Council.

- 7.5 The changes to the ordinary membership of the other statutory committees are more fundamental. Their ordinary membership will cease to be drawn from the General Council and will instead be public appointments. This is in line with the Government's view that the Council's of the Health Care Professions should be more board-like and Council members should be focusing on strategy and the oversight of their executives. The change will enable the Council to appoint to its committees that are responsible for health and conduct matters people with specific expertise that is relevant to the work that they do. The Health and Professional Conduct Committees will become lists of not more than 30 people from which will be drawn panels to meet for particular hearings. Similar panel systems are already used by other Regulators and are thought to allow for more effective and efficient disposal of health and conduct cases than traditional practice committees. Permitting the GCC to move to such a system is also in line with the present overarching policy of allowing Health Professions' Regulators greater autonomy over their internal structures.
- 7.6 There are further provisions to ensure that proceedings of statutory committees are not invalidated by defects in appointments, vacancies, or disciplinary action against committee members. This is a standard provision to obviate the need to repeat such proceedings.

- ***Consolidation***

- 7.7 The 2009 Rules are a self-standing set of Rules that do not amend other legislation.

8. Consultation outcome

- 8.1 The GCC held consultation meetings in September 2008 with representatives of all key stakeholders, prior to consideration of the draft Rules by the General Council. All stakeholders supported the reforms set out in the draft Rules and made only one suggestion for change, which was subsequently incorporated in the final draft.
- 8.2 The change, which was supported by the stakeholders, and subsequently incorporated, was a change to the quorum of the Investigating Committee, so that it required at least two chiropractic and two lay members within the minimum attendance of five.

9. Guidance

- 9.1 The Department of Health has not issued any guidance in relation to this Order.

10. Impact

- 10.1 There is minimal impact on business, charities or voluntary bodies. Appointments to the statutory committees must be ratified by the GCC Council. The Council itself is subject to the GCC's Race Equality scheme, which affords protection of equality and diversity within the chiropractic profession, as well as within the GCCs own workforce. This provides the necessary safeguards to ensure that there is no negative impact on equality issues.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 This legislation will be subject to internal review, within the Department of Health, after three years.

13. Contact

Niall McDermott at the Department of Health Tel: 0113 254 6873 or email: Niall.McDermott@dh.gsi.gov.uk can answer any queries regarding the instrument.