

POLICY NOTE TO
THE HEALTH AND CARE PROFESSIONS COUNCIL (CORONAVIRUS)
(AMENDMENT) RULES ORDER OF COUNCIL 2021

2021 No. 27

The above instrument was made in exercise of the powers conferred by articles 26(3), 32, 37(4) and (5), and 41(2) of the Health Professions Order 2001. This instrument is subject to negative procedure.

Background

1. The instrument contains amendments to the Health and Care Professions Council (HCPC) Rules. The amendments ensure that the HCPC's processes can continue during the current COVID-19 pandemic and future emergencies, and also make provision for service of documents by electronic means.
2. The instrument is made under the Health Professions Order 2001 and amends the rules contained in the Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003, the Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003, the Health and Care Professions Council (Health Committee) (Procedure) Rules 2003 and the Health Professions Council (Registration Appeals) Rules 2003.

Policy Objective

3. This instrument is being made in order to amend the HCPC's operating procedures during an emergency period and to allow for service of documents by electronic means.
4. The Rules amend the procedural rules for the HCPC's three Practice Committees, which conduct fitness to practise proceedings and the procedural rules for its Appeal Panel, which hears appeals against registration decisions.
5. The amendments to all four sets of procedural rules are in similar form and make two changes. They provide for the service by electronic means of notices and other documents relating to fitness to practise and appeals proceedings and enable the Practice Committees and Appeal Panel to conduct hearings and meetings by audio or video conference in an emergency. The latter amendments also provide that where a hearing is being held by audio or video conferencing, the Committee may order that the hearing is to be held in private.

Consultation

6. The HCPC undertook a targeted consultation between 25 August 2020 and 8 September 2020 on proposals to amend the Rules. Of the range of stakeholders who were notified about the consultation, including professional bodies, unions, service user representatives and the Professional Standards Authority; most were broadly supportive of the proposed Rules changes.

Guidance

7. The HCPC has published remote hearing guidance on its website. The guidance is available at: <https://www.hcpts-uk.org/aboutus/publications/hcpts-remote-hearing-guidance/>

Impact

8. There is no, or no significant, impact on business, charities or voluntary bodies. There is also no, or no significant, impact on the public sector.
9. The Equality Impact Assessment (EIA) identified potential barriers to participating fully and fairly in the fitness to practise process. Those barriers might be caused by lack of access to or inability to use email or remote hearing technology, as well as inadequate accommodation or lack of privacy in which to undertake a remote hearing. There may also be impacts on participants with mental health conditions or those who are vulnerable, who may find undertaking a remote hearing from their home, without access to the usual support services, isolating and stressful.
10. The EIA also identified that the ability to provide reasonable adjustments may be reduced if adjustments cannot be accommodated in soft copy documents, correspondence sent by email, or in a remote environment. The HCPC has taken steps to ensure barriers to access are reduced and that it can continue to support parties effectively throughout the fitness to practise process. Pre-hearing case management conferences and technical support checks allow it to identify and resolve any potential issues with participants' engagement in a remote hearing in advance of the hearing and familiarise parties with the technology.
11. The HCPC has developed specific guidance for panel members on remote hearings, including ensuring the welfare of participants during the hearing, and its Remote Hearings Guidance document includes further guidance on hearing and witness management. The HCPC retains the provision to hold physical hearings and send hard copy notices and documents, and it will continue to do so where appropriate to ensure all participants have full and fair access to the fitness to practise process. The HCPC will continue to seek feedback on its hearings, identify any trends or themes emerging and review its processes accordingly.
12. The Financial Impact Assessment indicates that there is an increased cost to conducting hearings remotely, resulting from the additional time required to undertake a remote hearing. This is offset by the costs saved on room hire, expenses,

travel and accommodation. The introduction of electronic service will also deliver a saving in terms of reduced printing and postage costs.

13. The full impact assessments are available on request to the HCPC. Details of how to contact HCPC can be found on its website: <https://www.hcpc-uk.org/contact-us/>

Monitoring and Review

14. The HCPC reviews its Rules from time to time and will continue to do so.

Scottish Government Health and Social Care Directorates

January 2021