

2006 No. 1668

HEALTH CARE AND ASSOCIATED PROFESSIONS

DENTISTS

PROFESSIONS COMPLEMENTARY TO DENTISTRY

**The General Dental Council (Registration Appeals) Rules Order
of Council 2006**

<i>Made</i> - - - -	<i>23rd June 2006</i>
<i>Laid before Parliament</i>	<i>29th June 2006</i>
<i>Coming into force</i> - -	<i>31st July 2006</i>

At the Council Chamber, Whitehall, the 23rd day of June 2006

By the Lords of Her Majesty's Most Honourable Privy Council

The General Dental Council have made the General Dental Council (Registration Appeals) Rules 2006 as set out in the Schedule to this Order.

In accordance with section 50C(2) and (3) of the Dentists Act 1984(a) such Rules shall not come into force until approved by order of the Privy Council.

Having considered the Rules, their Lordships approve them.

This Order may be cited as the General Dental Council (Registration Appeals) Rules Order of Council 2006 and shall come into force on 31st July 2006.

A K Galloway
Clerk of the Privy Council

(a) 1984 c.24; section 50C was inserted by S.I. 2005/2011.

SCHEDULE

The General Dental Council (Registration Appeals) Rules 2006

The General Dental Council make the following Rules in exercise of their powers conferred under section 50C(5) and (6) of, and paragraphs 2 and 3 of Schedule 3 and paragraphs 2 and 3 of Schedule 4B to, the Dentists Act 1984(a).

The General Dental Council have consulted in accordance with section 50D(b) of that Act.

Citation and commencement

1. These Rules may be cited as the General Dental Council (Registration Appeals) Rules 2006 and shall come into force on 31st July 2006.

Interpretation

2. In these Rules—

“the Act” means the Dentists Act 1984;

“appeal” means an appeal which is made to the Committee against an appealable registration decision(c) under paragraph 4(1) of Schedule 2A(d) to the Act (registration appeals: dentists register) or paragraph 4(1) of Schedule 4A(e) to the Act (registration appeals: dental care professionals register);

“appellant” means a person making or wishing to make an appeal;

“Committee” means the Registration Appeals Committee;

“Hearings Director” means the person authorised by the registrar to discharge the functions of the registrar in relation to the Committee;

“notice of appeal” shall be construed in accordance with rule 3; and

“party” means—

- (a) the appellant; or
- (b) the registrar.

Notice of appeal

3.—(1) An appellant shall make an appeal by sending notice in writing in accordance with the following paragraphs.

(2) The notice shall—

- (a) be sent to the Hearings Director at the offices of the Council;
- (b) state that it is a notice of appeal; and
- (c) be signed by or on behalf of the appellant.

(3) The notice shall include—

- (a) the full name and any former names of the appellant;
- (b) his address in the register or the dental care professionals register or, if he is not registered in either of those registers, any previous address in either of those registers;

(a) 1984 c.24; Schedule 4B was inserted by, and Schedule 3 was substituted by, S.I. 2005/2011. Schedule 3 applies to proceedings before the Registration Appeals Committee (with modifications) by virtue of paragraph 4(7) of Schedule 2A to the Dentists Act 1984, and Schedule 4B applies to such proceedings by virtue of paragraph 4(7) of Schedule 4A to the Act.

(b) Section 50D was inserted by S.I. 2005/2011.

(c) See paragraph 1 of Schedules 2A and 4A to the Act for the construction of “appealable registration decision”.

(d) Schedule 2A to the Act was inserted by S.I. 2005/2011.

(e) Schedule 4A to the Act was inserted by S.I. 2005/2011.

- (c) his registration number (if he is registered in the register or the dental care professionals register);
- (d) where the appeal is against an appealable registration decision specified in paragraph 2(1) of Schedule 2A to the Act or paragraph 2(1) of Schedule 4A to the Act, the date, nature and other relevant details of the decision against which the appeal is made;
- (e) where the appeal is against an appealable registration decision treated as having been made in respect of the appellant by virtue of paragraph 3(2) of Schedule 2A to the Act or paragraph 3(2) of Schedule 4A to the Act, the date, nature and other relevant details of the application in respect of which there has been a failure to make a decision;
- (f) a concise statement of the grounds of the appeal; and
- (g) the name and address of the appellant's representative (if any) and a statement as to whether the Hearings Director should correspond with that representative concerning the appeal instead of with the appellant.

(4) The appellant shall attach to the notice of appeal a copy of any documents on which he proposes to rely for the purposes of the appeal.

Determination of appeal by way of hearing or otherwise

4.—(1) Upon receiving a valid notice of appeal, the Hearings Director shall send notification to the appellant acknowledging its receipt and informing him that—

- (a) he may before the end of the period of 28 days beginning with the date on which the notification was sent request that a hearing be held;
- (b) even if he does not request a hearing, the Committee may hold one if they consider it to be desirable; and
- (c) he may be heard and be represented at such a hearing.

(2) If either party has requested that a hearing be held, or the Committee determine that it would be desirable to hold a hearing, the appeal shall be determined by way of a hearing.

(3) The Committee may determine the appeal without a hearing if—

- (a) the appellant has not, within the period specified in paragraph (1)(a), requested that a hearing be held;
- (b) the registrar agrees that the appeal may be determined without a hearing; and
- (c) the Committee consider it to be desirable to determine the appeal without a hearing.

(4) The Committee may at any stage reverse a decision under paragraph (3) to determine the appeal without a hearing where they consider it desirable to do so, and in such a case, rule 5(1) and (3) shall apply.

(5) In this rule, “the Committee” means those persons who are to form the membership of the Committee at the hearing or meeting which is to determine the appeal.

Notification of proceedings

5.—(1) Where the appeal is to be determined by way of a hearing in accordance with rule 4(2), the Hearings Director shall fix a date for the hearing and shall send notification to the parties of the date, time and venue for the hearing.

(2) Where the appeal is to be determined without a hearing in accordance with rule 4(3), the Hearings Director shall fix a date for the meeting at which the appeal is to be determined, and shall send notification to the parties of the date of the meeting.

(3) The Hearings Director shall not fix a date for the determination of the appeal which is before the end of the period of 28 days beginning with the date on which the Hearings Director sent the notification referred to in paragraph (1) or (2) to the appellant.

Further representations and registrar's documents

6.—(1) Upon receiving a valid notice of appeal, the Hearings Director shall send notification of the proceedings to any person who in his opinion has an interest in those proceedings.

(2) Where the Hearings Director sends notification under paragraph (1), a person so notified may send written representations to the Hearings Director before the end of the period of 14 days beginning with the date on which the Hearings Director sent the notification referred to in paragraph (1) to that person.

(3) Before the end of the period of 7 days beginning with the date on which the Hearings Director sent the notification referred to in rule 5(1) or (2) to the registrar, the registrar shall send to the Hearings Director a copy of any documents on which he proposes to rely for the purposes of the appeal.

Representation at the hearing etc.

7.—(1) Where the appeal is to be determined by way of a hearing, before the end of the period of 28 days beginning with the date on which the notification referred to in rule 5(1) is sent, the parties shall inform the Hearings Director whether or not they intend to attend or be represented at the hearing and whether or not they intend to call any witnesses and, if so, shall provide their names and addresses to the Hearings Director.

(2) The appellant may, before the beginning of the period of 7 days ending with the date on which the appeal is to be determined, send to the Hearings Director additional written representations in support of his appeal where—

- (a) he does not intend to attend or be represented at the hearing; or
- (b) the appeal is to be determined without a hearing.

Documents

8.—(1) The Hearings Director shall produce a paginated bundle comprising—

- (a) the notice of appeal;
- (b) any documents attached to the notice of appeal by the appellant in accordance with rule 3(4);
- (c) the written representations (if any) of any person notified of the proceedings under rule 6(1);
- (d) any documents sent by the registrar in accordance with rule 6(3); and
- (e) any written representations sent by the appellant in accordance with rule 7(2).

(2) Before the beginning of the period of 14 days ending with the date on which the Committee are to determine the appeal, the Hearings Director shall send a copy of the bundle prepared in accordance with paragraph (1) to the parties and to the members of the Committee.

(3) At any time before the date on which the Committee are to determine the appeal, the Hearings Director may produce a supplementary paginated bundle comprising any further documents or written representations which he considers that it would be in the interests of justice to include, and shall send any such bundle to the parties and to the members of the Committee.

(4) Before the beginning of the period of 14 days ending with the date on which the Committee are to determine the appeal, the Hearings Director shall also send to the appellant—

- (a) a copy of these Rules; and
- (b) a copy of—
 - (i) Schedules 2A (registration appeals: dentists register) and 3 (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dentists) to the Act, in the case of an appeal under paragraph 4(1) of Schedule 2A to the Act, or

- (ii) Schedules 4A (registration appeals: dental care professionals register) and 4B (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dental care professionals) to the Act, in the case of an appeal under paragraph 4(1) of Schedule 4A to the Act.

Directions hearing

- 9.—(1) After the Hearings Director has received a valid notice of appeal he may—
- (a) of his own motion, or
 - (b) at the request of either party,

invite those persons who are to form the membership of the Committee at the determination of the appeal to decide whether they consider that holding a preliminary meeting in private (a “directions hearing”) would assist them in determining the appeal.

(2) If the persons specified in paragraph (1) decide to hold a directions hearing, the Hearings Director shall fix a date for the directions hearing and shall send notification to the parties and any other person who those persons consider appropriate.

(3) The persons notified under paragraph (2), together with the parties’ representatives, may attend the directions hearing.

- (4) At a directions hearing the Committee may—
- (a) give directions as to the conduct of the case; and
 - (b) give directions as to the consequences of failure to comply with directions given under sub-paragraph (a).

(5) Rules 12, 14(2) and (3) and 16(1), (3) and (4) shall apply to a directions hearing.

(6) Where at a directions hearing the Committee vote to decide a matter but the votes are equal, that matter shall be decided at the commencement of the determination of the appeal.

(7) The Chairman of the Committee may hold a directions hearing or give the directions specified in paragraph (4) on behalf of the Committee and, with the agreement of the parties, may take any action which the Committee would be competent to take at such a hearing.

Withdrawal of appeal

10. An appellant may withdraw his appeal at any time before the determination of the appeal, by sending notification to that effect to the Hearings Director.

Power to determine an appeal without a hearing

11. Where a notification of hearing has been sent to the parties under rule 5(1), the Committee may nevertheless determine an appeal without a hearing where—

- (a) the Committee do not receive a reply from the appellant within the time specified in rule 7(1) and the Committee are satisfied that the notification of hearing was sent under rule 5(1), or the appellant replies under rule 7(1) to the effect that he does not wish to attend or be represented;
- (b) the Committee have notified the appellant of their intention to do so; and
- (c) the Committee consider it desirable to do so having taken into account any representations received in response to the notification referred to in paragraph (b).

Postponement and adjournment

12.—(1) The Committee, either of their own motion or at the request of either party, may postpone a hearing at any time before it begins.

(2) Where a hearing is postponed the Hearings Director shall send notification to the parties of the date on which the Committee are to hold the postponed hearing.

(3) The Hearings Director shall not fix a date for the postponed hearing which is before the end of the period of 14 days beginning with the date on which the Hearings Director sent the notification referred to in paragraph (2) to the appellant.

(4) The Committee may adjourn the proceedings from time to time as they think fit.

(5) In this rule, “the Committee” means (except at the hearing or meeting determining the appeal) those persons who are to form the membership of the Committee at that hearing or meeting.

Absence of the appellant

13. Where—

- (a) the Committee have fixed a date for a hearing, and
- (b) the appellant has informed the Committee that he intends to attend or be represented, but
- (c) he does not attend and is not represented,

the Committee may nevertheless proceed with the hearing.

Conduct of hearing

14.—(1) The Committee shall hear an appeal in public unless they are satisfied that, in the interests of justice or for the protection of the private or family life of the appellant or of any other person, the public should be excluded from all or part of the hearing.

(2) The parties may be represented at the hearing by—

- (a) a barrister or solicitor;
- (b) in the case of the appellant, a professional colleague, any officer or member of any organisation of which he is a member or any member of his family, whether or not legally qualified;
- (c) in the case of the registrar, an employee of the Council, whether or not legally qualified.

(3) The Committee may exclude from the whole or any part of a hearing any person (including a party or his representative) whose conduct, in the Committee’s opinion, has disrupted or is likely to disrupt the proceedings.

Procedure at hearing

15.—(1) At the hearing, the parties and any representatives of the parties may—

- (a) address the Committee;
- (b) give evidence;
- (c) call and examine witnesses; and
- (d) cross-examine witnesses called by the other party or the other party’s representatives.

(2) The Committee may receive any evidence they consider fair and relevant to the case before them, whether or not such evidence—

- (a) was available to the registrar at the time of the appealable registration decision at issue; or
- (b) would be admissible in a court of law.

(3) The Committee may question any person giving oral evidence at the hearing.

(4) The Committee may receive evidence that has not been submitted in accordance with these Rules if they are satisfied that it is in the interests of justice to do so.

(5) Subject to these Rules, the Chairman of the Committee shall, having consulted the legal adviser, give such directions as to the conduct of and procedure at the hearing as he considers just.

(6) The appellant shall have the right to address the Committee last.

(7) After the presentation of evidence and submissions by the parties, the parties shall withdraw and the Committee shall deliberate in private.

(8) In this rule “legal adviser” means the legal adviser appointed in accordance with paragraph 1 of Schedule 4C(a) to the Act (advisers).

Disposal of appeals

16.—(1) Any decision required to be made by the Committee shall be taken by simple majority.

(2) Where the votes are equal, the Committee shall decide the issue against the appellant.

(3) The Chairman of the Committee shall not have a casting vote.

(4) No member of the Committee may abstain from voting.

(5) Where there has been a hearing, the Chairman of the Committee shall announce the determination of the Committee and the reasons for it in the presence of the parties attending the hearing.

(6) As soon as practicable after the conclusion of the proceedings, the Hearings Director shall cause a written statement of the Committee’s decision and the reasons for the decision to be given to any other person who in his opinion has an interest in the proceedings.

Transcript record

17.—(1) The Hearings Director shall arrange for all meetings and hearings of the Committee (including directions hearings held in accordance with rule 9) to be recorded in writing or electronic form.

(2) The Hearings Director shall supply to any person who so requests a copy of those portions of the transcript record that relate to those parts of the hearing (or directions hearing) at which that person was entitled to be present, following payment by that person of the cost of preparing the copy.

(3) Paragraphs (1) and (2) shall not apply to the private deliberations of the Committee.

Publication

18. Following the determination of an appeal, the Hearings Director shall publish the following information on the Council’s website(b)—

(a) the appellant’s full name;

(b) the nature of the appeal;

(c) the outcome of the appeal; and

(d) such reasons for the Committee’s decision as the Committee direct should be published.

Service of documents

19.—(1) All communications to be sent for the purposes of these Rules may be sent by post and any such communication shall be treated as having been sent on the day on which it was posted.

(2) The service of any notification may be proved by—

(a) a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service; or

(b) a signed statement from any person delivering the notification by hand.

(3) If the appellant is represented in his appeal by a barrister or solicitor, any notification or other documents which these Rules require to be sent to the appellant shall be sent to that representative at his practising address.

(a) Schedule 4C was inserted by S.I. 2005/2011.

(b) www.gdc-uk.org.

Given under the official seal of the General Dental Council on 15th June 2006.

Hew Byrne Mathewson
President

Duncan Rudkin
Registrar

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which is made under the Dentists Act 1984, approves Rules made by the General Dental Council. Those Rules provide for the procedure to be followed by the Registration Appeals Committee of the General Dental Council when determining an appeal by a person against the decisions specified in Schedule 2A and Schedule 4A to the Dentists Act 1984 (decisions relating to the registration of dentists and dental care professionals).

The Rules include provision in respect of the notice of appeal (rule 3), further evidence and documents which may be sent or prepared in relation to the appeal (rules 6 and 8), preliminary hearings (rule 9) and the conduct and procedure at an oral hearing (rules 14 and 15).

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