

Council, 24 September 2015

Consultation on proposed amendments to the Registration and Fees and Practice Committee Rules

Executive summary and recommendations

Introduction

The 'Registration transformation and improvement project' is progressing. As part of this project, amendments to the Registration and Fees Rules are proposed, for which a public consultation is required.

A consultation document and a set of draft amendment Rules has now been prepared. The changes proposed to the Registration and Fees Rules are in summary to provide enabling powers around electronic communication and to remove the requirement for a character reference from applicants for registration. In addition, we have also taken the opportunity to propose amendments to the Practice Committee Rules to provide fitness to practise chairs the power to give directions without the need for a preliminary meeting.

The Council is required to consult the Education and Training before making Rules in respect of registration matters. (The power to make Rules rests solely with the Council.) The Education and Training Committee reviewed the draft consultation document at its meeting on 10 September 2015, agreeing and recommending its approval by the Council. The Committee was also invited to discuss the draft amendment Rules.

Technical scrutiny of the draft amendment Rules by Department of Health and Scottish Government lawyers is ongoing and is likely to continue throughout the process. We plan to bring the outcomes of the consultation to the Education and Training Committee and the Council in March 2016.

Decision

The Council is invited to:

- agree the text of the consultation document (subject to minor editing amendments and formal legal scrutiny); and
- agree the text of the draft set of amendment Rules for public consultation.

Background information

- Article 7(1) of the Health and Social Work Professions Order 2001 says: 'Having consulted the Education and Training Committee the Council shall make rules in connection with registration and the register, and as to the payment of fees'.

Resource implications

Resource implications include arranging the consultation and analysing the responses. These implications have been accounted for in Policy and Standards Department and planning for 2015-2016.

Financial implications

The financial implications include the legal costs of preparing the draft amendment Rules. These implications have been accounted for in Policy and Standards Department budgeting for 2015-2016.

Appendices

- DRAFT The Health and Care Professions Council (Registration and Practice Committees) (Amendment) Rules 2015 Order of Council 2015.

Date of paper

11 September 2015

Consultation on proposed amendments to the Registration and Fees and Practice Committee Rules

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1. Introduction

- 1.1 We are the Health and Care Professions Council (HCPC). This consultation seeks the views of stakeholders on proposed amendments to the following Rules.
- The Health and Care Professions Council (Registration and Fees) Rules 2003. These are referred to in this document as the 'Registration and Fees Rules'.
 - The Health Professions Council (Investigating Committee) (Procedure) Rules 2003; The Health Professions Council (Conduct and Competence Committee; and The Health Professions Council (Health Committee) (Procedure) Rules 2003. These rules are collectively referred to in this document as the 'Practice Committee Rules'.
- 1.2 We are proposing a small number of changes to the Rules. The main changes we are proposing would mean the following, if implemented.
- We would be able to improve the range of online services for applicants and registrants. For example, we will be able to introduce the ability for applicants to apply for registration online.
 - A character reference would no longer be required as part of applications for registration. Instead, we would require a declaration from the applicant.
 - The Chairs of fitness to practise panels would be able to give directions to deal with matters such as changing the location of a hearing or making decisions about timescales for the exchange of documentation, without the need for a preliminary hearing.
- 1.3 A draft of 'The Health and Care Professions Council (Registration and Practice Committees) (Miscellaneous Amendment) Rules 2015 Order of Council 2015' (which would make the proposed changes to our Rules) is included as an appendix to this consultation document. These rules are referred to in this document as the 'draft Amendment Rules'.
- 1.4 The existing Registration and Fees Rules and Practice Committee Rules are available from our website here:
<http://www.hcpc-uk.org/aboutus/legislation/rules/>
- 1.5 The consultation runs from **5 October 2015** to **15 January 2016**

2. About us

2.1 We are a regulator and were set up to protect the public. To do this, we keep a register of professionals who meet our standards for their professional skills and behaviour. Individuals on our register are called 'registrants'.

2.2 We currently regulate 16 professions.

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

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3. Amendments to the Registration and Fees Rules

- 3.1 In this section we have explained the amendments we are proposing to the Registration and Fees Rules.
- 3.2 Most of the proposed amendments to the Registration and Fees Rules are part of delivering our 'Registration transformation and improvement project'. This project will improve the delivery of our registration function, underpinned by a new IT system. As part of this we are looking at our current ways of working and how we can improve the quality of our work and the customer service we provide to registrants and applicants.

Electronic communication

- 3.3 We are proposing to amend the Rules to increase our ability to communicate with applicants and registrants by electronic means – for example, online or via email.
- 3.4 This would mean that where in the Registration and Fees Rules there is a requirement for us to send a document to an applicant or registrant, it would be possible for us to send this electronically rather than by mail. The applicant or registrant would need to give us their permission to communicate with them in this way and they would need to provide us with an email address.
- 3.5 The proposed amendments also mean that a registrant or applicant would be able to give us information electronically. This will allow us to introduce the facility in the future for applicants to apply for registration with us online. We introduced the ability for registrants to renew online in 2010 and the majority of registrants now choose to renew in this way. Online renewal has benefits for registrants in being able to renew quickly and easily with instant confirmation of their continued registration. We want to achieve similar benefits by introducing online applications.
- 3.6 The proposed amendments are outlined in Rule 2 of the draft Amendment Rules.

Q1. Do you agree with our proposal about electronic communication?

Character references

- 3.7 We are proposing to amend the Rules to remove the requirement for applicants to provide a character reference when they apply for registration.
- 3.8 Under the Health and Social Work Professions Order 2001, we are required to ensure that applicants for registration are of 'good character'. One of the ways in which we currently do this is by requiring a reference from applicants applying for admission or readmission to the Register. The reference has to be signed by someone who has known the applicant for at least three years and who has a professional standing in the community – for example, a

solicitor, accountant or a health and care professional. The reference asks the referee to confirm that they 'know of no reason why the applicant should not practise the above profession with honesty and integrity'. The applicant returns the completed reference with their application form.

- 3.9 We propose to replace the reference requirement with a self-declaration. We already ask, and will continue to ask, applicants to declare information about their conduct and competence, for example, information about any police cautions and criminal convictions.
- 3.10 In 2011, we amended the Rules to introduce a self-declaration about health which applicants are required to complete. This replaced a previous requirement for a health reference to be completed by a doctor. This requirement was removed because we considered it to be disproportionate and to act as an unnecessary barrier to registration. Our proposal about the character reference is therefore consistent with this approach.
- 3.11 Additionally, we do not consider that the current requirement for a character reference adds any value to our role and want to eliminate unnecessary form-filling in the registration process. For some applicants, such as those who have undertaken training of less than three years in duration, finding an appropriate referee can be challenging and we are concerned that this acts as a barrier to registration in these cases.
- 3.12 The proposed amendments are contained within Rules 2(3), 2(4), 2(5) and 2(8) of the draft Amendment Rules.

Q2. Do you agree that we should remove the requirement for a character reference and replace it with a self-declaration?

Other changes

- 3.13 We are also proposing to amend the Registration and Fees Rules to remove content which is out of date and no longer required. This content relates to transitional provisions for the regulation of new professions in the past.
- 3.14 The proposed amendments are contained within Rules 2(5) and 2(6) of the draft Amendment Rules.

4. Amendments to the Practice Committee Rules

- 4.1 In this section we have explained the amendments we are proposing to the Practice Committee Rules.

Ability of fitness to practise chairs to give directions

- 4.2 Once a fitness to practise case has been referred to be considered at a public hearing, fitness to practise panels have the power to hold preliminary hearings in private with the parties involved for the purpose of case management.¹ By 'parties' we mean normally the HCPC and the registrant who is involved and their representatives (if any). In most fitness to practise cases, such a hearing will not be required, but they are of assistance in the small number of cases where substantial evidential or procedural issues need to be resolved prior to a full hearing taking place. Examples of issues that might be considered include the extent to which any evidence is agreed; the needs of vulnerable witnesses; and any special arrangements for the exchange of documents before a hearing. A hearing will normally be held by the panel Chair, acting alone, on behalf of the panel.
- 4.3 We are proposing a small amendment to the Practice Committee Rules which would allow panel Chairs to give directions about the case management of fitness to practise cases without the need for a preliminary hearing to take place. We anticipate that this power would be used in order to make directions on procedural matters, for example, the location of hearings and any changes to routinely applied arrangements for the exchange of documentation, as well as dealing with uncontested pre-hearing case management issues such as the joining of allegations and the use of expert evidence. We do not anticipate that this power would be used for dealing with matters that are complex in nature or contested by the registrant concerned. This change would not replace or remove the ability of the parties to request a preliminary hearing, nor the existing power of the Chair to determine that such a hearing is necessary.
- 4.4 In those small number of cases where it is necessary, adding this power would help avoid the unnecessary expense of a preliminary hearing for both parties involved. It would also help ensure that these cases are concluded in a fair and expeditious manner.
- 4.5 The proposed amendments are contained within Rules 3, 4 and 5 of the draft Amendment Rules.

Q3. Do you agree that Panel Chairs should be able to give directions without the need for a preliminary hearing?

¹ The legislation refers to 'preliminary meetings' but that term has been found to mislead some parties as to the nature of the proceedings, so we have adopted the term 'preliminary hearing' in practice.

Other changes

- 4.6 We are also proposing to update the Practice Committee Rules so that they refer to the 'Health and Care Professions Council' rather than the 'Health Professions Council'. This would reflect our change of name in August 2012.

Q4. Do you have any other comments to make about our proposed amendments to the Registration and Fees Rules and Practice Committee Rules?

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5. Future changes to the Registration and Fees Rules

- 5.1 As our project to replace and improve our existing registration system and processes progresses, we anticipate consulting in the future on further proposed amendments to the Registration and Fees Rules.
- 5.2 One change we are likely to propose are amendments to the registration cycle for a small number of the professions.
- 5.3 Each profession renews its registration at fixed points over a two year cycle. At the moment, some professions renew over the summer period, which is our busiest period for applications for registration from graduates from approved programmes. They are: clinical scientists, chiropractors / podiatrists, hearing aid dispensers, orthoptists, paramedics, prosthetists / orthotists and speech and language therapists. One profession – radiographers – renews its registration over the Christmas period.
- 5.4 The end dates of the registration cycle for each profession are included in Schedule 5 to the Registration and Fees Rules. In future we plan to consult on proposals to change the cycles for the professions outlined above, so that we avoid professions renewing over the summer or Christmas periods. This will have benefits for both us and for registrants in these professions. It will mean that we can process the high volume of applications we receive over the summer period faster. It will also mean that we will be able to deal with any queries about renewal in these professions faster. Renewing a profession over the Christmas period is less than ideal, so moving the registration cycle for radiographers should be more convenient for everyone involved.
- 5.5 Although we will only consult on specific proposals once our project is at a more advanced stage and we are operationally ready to make the changes, we wanted to flag this to our stakeholders at an early opportunity. We would welcome any comments you might have at this stage.

Q5. Do you have comments on our future plans to change the registration cycles for some professions to avoid the summer and Christmas periods?

6. How to respond to the consultation

6.1 We would welcome your response to the consultation. We have included some consultation questions in the main body of this document. The questions are not designed to be exhaustive and we would welcome your comments on any aspect of our proposals. They are repeated below.

Q1. Do you agree with our proposal about electronic communication?

Q2. Do you agree that we should remove the requirement for a character reference and replace it with a self-declaration?

Q3. Do you agree that panel Chairs should be able to give directions without the need a preliminary hearing?

Q4. Do you have any other comments to make about our proposed amendments to the Registration and Fees Rules and Practice Committee Rules?

Q5. Do you have comments on our future plans to change the registration cycles for some professions to avoid the summer and Christmas periods?

6.2 You can respond to this consultation in the following ways.

- By completing our easy-to-use online survey: [\[link will appear here\]](#)
- By emailing us at: consultation@hcpc-uk.org.
- By writing to us at the following address.

Consultation on proposed amendments to the Registration and Fees and Practice Committee Rules
Policy and Standards Department
Health and Care Professions Council
Park House
184 Kennington Park Road
London
SE11 4BU
Fax: +44(0)20 7820 9684

6.3 Please note that we do not normally accept responses by telephone or in person. We normally ask that consultation responses are made in writing. However, if you are unable to respond in writing, please contact us on +44(0)20 7840 9815 to discuss any reasonable adjustments that would help you to respond.

6.4 Please complete the online survey or send us your response by **15 January 2016**.

- 6.5 **Please contact us to request a copy of this document in Welsh or in an alternative format.**
- 6.6 Once the consultation period is completed, we will analyse the responses we receive. We will then publish a document which summarises the comments we received and explains the decisions we have taken as a result. This will be published on our website.

DRAFT FOR COUNCIL 24092015

2015 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

The Health and Care Professions Council (Registration and Practice Committees) (Amendment) Rules 2015 Order of Council 2015

Made - - - - - ***
Laid before Parliament ***
Laid before the Scottish Parliament ***
Coming into force - - - - - ***

At the Council Chamber, Whitehall, the *** day of ***

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

The Health and Care Professions Council has made the Health and Care Professions Council (Registration and Practice Committees) (Amendment) Rules 2015 which are set out in the Schedule to this Order, in exercise of the powers conferred by articles 7(1) and (2), 9(2), 32(4) and 41(2) of the Health and Social Work Professions Order 2001.^(a)

In accordance with articles 7(1) and (3) and 41(3) of that Order, the Health and Care Professions Council has consulted the Education and Training Committee and representatives of groups of persons it considers appropriate, including representatives of the groups listed in articles 7(3) and 41(3) of that Order.

In accordance with articles 41(1) and 42(1) of that Order, such Rules shall not come into force until approved by Order of the Privy Council.

Citation and commencement

1. This Order may be cited as the Health Professions Council (Registration and Practice Committees) (Amendment) Rules 2015 Order of Council 2015 and comes into force on ***.

Privy Council approval

2. Their Lordships, having taken the Rules contained in the Schedule to this Order into consideration, are pleased to and do approve them.

(a) S.I. 2002/254. By section 214 of the Health and Social Care Act 2012 (c. 7), the Health Professions Council was re-named the "Health and Care Professions Council" and the Health Professions Order 2001 was renamed the "Health and Care Professions Order 2001".

SCHEDULE

The Health and Care Professions Council (Registration and Practice Committees) (Amendment) Rules 2015

The Health and Care Professions Council makes the following Rules in exercise of the powers conferred by articles 7(1) and (2), 9(2), 32(4) and 41(2) of the Health and Social Work Professions Order 2001.(b)

In accordance with articles 7(1) and (3) and 41(3) of that Order, the Health and Care Professions Council has consulted the Education and Training Committee and representatives of groups of persons it considers appropriate, including representatives of the groups listed in article 41(3) of that Order.

Citation and commencement

1. These Rules may be cited as the Health and Care Professions Council (Registration and Practice Committees) (Amendment) Rules 2015 and come into force on ***.

Amendment of the Health and Care Professions Council (Registration and Fees) Rules 2003

2.—(1) The Health Professions Council (Registration and Fees) Rules 2003(c) are amended in as follows.

(2) After rule 2 (interpretation) insert—

“Electronic communication

2ZA.—(1) A requirement in these rules for a person to send to or serve upon another person (“the recipient”) any document may be satisfied by—

- (a) sending it by post to the recipient; or
- (b) subject to paragraphs (2) and (3), transmitting it by electronic means to the recipient.

(2) The Council, the Committee or the Registrar may send or serve a document by electronic means only if the recipient has, in writing—

- (a) indicated to the sender (and has not withdrawn the indication) that the recipient is willing to receive the document by those means, and
- (b) provided an e-mail address to the sender for that purpose.

(3) A person may send a document to the Council, the Committee or the Registrar by electronic means only if the Council, the Committee or the Registrar (as the case may be)—

- (a) has indicated that the recipient is willing to receive the document or documents of that kind by those means (and has not withdrawn the indication); and
- (b) has, for the purpose of doing so—
 - (i) notified the sender of an appropriate e-mail address or other electronic identification; or
 - (ii) published an appropriate e-mail address or other electronic identification.”.

(3) In rule 4 (applications for registration)—

- (a) in paragraph (1A), in sub-paragraph (a) for “declaration” substitute “declarations”;
- (b) (2), omit sub-paragraph (a); and
- (c) omit paragraphs (3), (3A) and (3B).

(b) S.I. 2002/254. By section 214 of the Health and Social Care Act 2012 (c. 7), the Health Professions Council was re-named the “Health and Care Professions Council” and the Health Professions Order 2001 was renamed the “Health and Care Professions Order 2001”.

(c) (a) S.I. 2003/1572. The title to the Rules was amended to read the “Health and Care Professions (Registration and Fees) Rules 2003” by rule 2 of S.I. 2014/532 to reflect the change in the Council’s name (see footnote (a)).

- (4) In rule 5 (other conditions of registration)—
- (a) in paragraph (1), for sub-paragraph (a) substitute—
 - “(a) the character declaration provided by the applicant under rule 4(1)(a) of (1A)(a) or paragraph (n) of Schedule 1;”;
 - (b) in paragraph (2), in sub-paragraph (a) for “declaration” substitute “health declaration”.
- (5) In rule 10 (registration period)—
- (a) omit paragraphs (2), (2A), (2B) and (2C); and
 - (b) in paragraph (3) for “Except as provided for in paragraph (2), (2A), (2B) or (2C), a person's” substitute “A person's”.
- (6) In rule 14 (registration fee)—
- (a) in paragraph (1) for “Subject to paragraphs (2) to (5) the fee” substitute “The fee”;
 - (b) omit paragraphs (2) to (5).
- (7) For rule 15 (renewal fee) substitute—

“Renewal fee

15. The fee to be charged for renewal of registration is £180.”.

- (8) Omit Schedule 3 (character reference).

Amendment of the Health Professions Council (Investigating Committee) (Procedure) Rules 2003

3.—(1) The Health Professions Council (Investigating Committee) (Procedure) Rules 2003 are amended in as follows.

(2) For the title to the rules, substitute “the Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003”.

(3) In rule 1 (citation and commencement), for “the Health Professions Council (Investigating Committee) (Procedure) Rules 2003” substitute “the Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003”.

- (4) For rule 7 (preliminary meetings) substitute—

“Directions and Preliminary meetings

7.—(1) The Chair may give directions under article 32(3) of the Order.

(2) The Committee or the Chair may hold a preliminary meeting in private with the parties, their representatives and any other person the Committee or the Chair considers appropriate if such a meeting would, in the opinion of the Committee or the Chair, assist the Committee to perform its functions.

(3) At any meeting which the Chair conducts under paragraph (1) the Chair may, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.”.

Amendment of the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003

4.—(1) The Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003 are amended in as follows.

(2) For the title to the rules, substitute “the Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003”.

(3) In rule 1 (citation and commencement), for “the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003” substitute “the Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003”.

(4) For rule 7 (preliminary meetings) substitute—

“Directions and Preliminary meetings

7.—(1) The Chair may give directions under article 32(3) of the Order.

(2) The Committee or the Chair may hold a preliminary meeting in private with the parties, their representatives and any other person the Committee or the Chair considers appropriate if such a meeting would, in the opinion of the Committee or the Chair, assist the Committee to perform its functions.

(3) At any meeting which the Chair conducts under paragraph (1) the Chair may, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.”.

Amendment of the Health Professions Council (Health Committee) (Procedure) Rules 2003

5.—(1) The Health Professions Council (Health Committee) (Procedure) Rules 2003 are amended in as follows.

(2) For the title to the rules, substitute “the Health and Care Professions Council (Health Committee) (Procedure) Rules 2003”.

(3) In rule 1 (citation and commencement), for “the Health Professions Council (Health Committee) (Procedure) Rules 2003” substitute “the Health and Care Professions Council (Health Committee) (Procedure) Rules 2003”.

(4) For rule 7 (preliminary meetings) substitute—

“Directions and Preliminary meetings

7.—(1) The Chair may give directions under article 32(3) of the Order.

(2) The Committee or the Chair may hold a preliminary meeting in private with the parties, their representatives and any other person the Committee or the Chair considers appropriate if such a meeting would, in the opinion of the Committee or the Chair, assist the Committee to perform its functions.

(3) At any meeting which the Chair conducts under paragraph (1) the Chair may, with the agreement of the parties, take any action which the Committee would be competent to take at such a meeting.”.

Given under the official seal of the Health and Care Professions Council this ***

Elaine Buckley
Chair

Marc Seale
Registrar

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves Rules made by the Health and Care Professions Council (“HCPC”) amending the Health and Care Professions Council (Registration and Fees) Rules 2003, the Health Professions Council (Investigating Committee) (Procedure) Rules 2003, the Health Professions

Council (Conduct and Competence Committee) (Procedure) Rules 2003 and the Health Professions Council (Health Committee) (Procedure) Rules 2003.

Rule 2(2) amends rule 2 the Health and Care Professions Council (Registration and Fees) Rules 2003 (“the Fees Rules”) by adding rule 2ZA. This provides for electronic communication between the HCPC, its registrants and those applying to registration.

Rules 2(3), 2(4) and 2(5) and 2(8) amend rules 4, 5 and 10 of, and schedule 3 to, the Fees Rules, removing the requirement for applicants to provide a character reference and replacing it with a character declaration.

Rules 2(5) and 2(6) amend rules 10 and 14 of the Fees Rules by removing transitional provisions which are spent.

Rule 3 amends rules 1, 7 and the title of the Health Professions Council (Investigating Committee) (Procedure) Rules 2003. The citation and title of the rules is amended to refer to the “Health and Care Professions Council” and a new rule 7 is substituted which enables the Chair of a Panel of the Committee, without the need to hold a preliminary meeting, to give directions under Article 32(3) of the Health and Social Work Professions Order 2001 in respect of the conduct of fitness to practise proceedings under Part V of that Order.

Rule 4 makes similar amendments to the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003.

Rule 5 makes similar amendments to the Health Professions Council (Health Committee) (Procedure) Rules 2003.