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### Council resolutions outside of meeting

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#### Executive Summary

Council Standing Order 19 allows for the Council to pass resolutions outside of a meeting. This paper notes any such resolutions made by the Council since its last meeting (24 September 2020), these are:

- Emergency Amendments to the Health and Care Professions Council Rules in response to COVID-19.

The relevant supporting documents to provided to members when proposing the resolutions are appended to the paper.

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Previous consideration	N/A
Decision	To note. The Council has agreed the amendments by correspondence on 2 October.
Next steps	The amended rules will be progressed by the DHSC when parliamentary time allows.
Strategic priority	The strategic priorities set in 2018 are no longer current. We are developing a new strategy that we aim to confirm at the end of 2020.
Financial and resource implications	A Financial Impact Assessment is included in the attached documents. There is no adverse impact on the budget.
Author	Claire Amor, Secretary to Council <a href="mailto:Claire.amor@hcpc-uk.org">Claire.amor@hcpc-uk.org</a>

## Council resolutions without meeting

Council Standing Order 19 allows for the Council to pass resolutions outside of a meeting. For a resolution to be valid the following conditions must be met:

- the Chairs consent must be given to circulate the resolution; and
- at least three quarters of the Council must state their agreement to pass the resolution.

Resolutions passed without meeting are recorded by the Secretary to Council and must be reported at the next meeting of the Council.

Requested by	Laura Coffey, Head of FTP
Resolution	
<p>The Council approved emergency amendments to the Health and Care Professions Council Rules in response to COVID-19.</p> <p>These amendments will formalise adaptations to our fitness to practise and registration appeals processes and procedures that we have been operating during the pandemic. Our aim in making these changes is to ensure that we are able to continue to fulfil our statutory duty to protect the public, progress fitness to practise investigations and conclude hearings as efficiently and safely as possible.</p> <p>Approval outside of meeting was sought due to the parliamentary timetable.</p>	
Date passed	2 October 2020

# Emergency Amendments to the Health and Care Professions Council Rules in response to COVID-19

## Background

The current pandemic has meant we have had to adapt some aspects of our fitness to practise and registration appeals processes and procedures, particularly those which had previously been dependent on staff, parties to a case or other stakeholders having a physical presence in our offices or hearings centres. Our aim in making any changes is to ensure that we are able to continue to fulfil our statutory duty to protect the public, progress fitness to practise investigations and conclude hearings as efficiently and safely as possible.

We also recognise that we continue to operate against a wider background of uncertainty caused by the pandemic, in particular the possibility of a second wave of the pandemic and further local or national 'lockdowns' in the months to come. The amendments we want to make to our Rules would provide stability and a level of certainty for internal and external stakeholders by ensuring that key regulatory processes can continue, regardless of any restrictions on movement, gatherings of people, or social distancing that might be imposed by the UK or devolved governments.

In the proposed changes to our Rules we are seeking to formalise adaptations to our fitness to practise and registration appeals processes and procedures that we have been operating during the pandemic.

The amendments we are seeking are consistent with emergency legislative changes granted to other healthcare regulators during the pandemic.

## The proposed changes

Our Rules are made under the Health Professions Order 2001, and set out the detailed procedures and requirements for several key HCPC functions. We are seeking to make amendments to the following Rules:

- Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003
- Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003
- Health and Care Professions Council (Health Committee) (Procedure) Rules 2003
- Health and Care Professions Council (Registration Appeals) Rules 2003

There are two changes that we wish to make to our Rules. Each change would apply to all four sets of Rules listed above.

### 1. Service of notice and documents

Currently, we are required to send notice or other documents to the relevant party by post. We are proposing to amend our Rules to allow us the provision to serve notice and send documents electronically, to the email address provided to the HCPC by the relevant party.

This amendment would be a permanent change to our Rules.

## **2. Remote hearings**

Prior to the pandemic, fitness to practise and registration appeal hearings were held at one of our hearings centres across the UK. The current pandemic necessitates that hearings should be undertaken in such a way as to minimise the risk of transmission of COVID-19, avoid any unnecessary delays and ensure that public protection is upheld. The use of remote hearings, where appropriate, is critical to our ability to continue to hold hearings in a safe and efficient manner.

We are therefore proposing to amend our Rules to give us the express provision to conduct meetings and hearings remotely, using audio and/or video conferencing facilities.

This amendment would only apply when there is a need to bring in emergency measures, for example during the COVID-19 pandemic.

In relation to both the electronic service of notices and documents and remote hearings, the HCPC will make reasonable adjustments, as required, to ensure participants can engage fairly and fully in the fitness to practise and registration appeal process.

### **Stakeholder consultation**

We carried out a stakeholder engagement exercise to seek views on the proposed emergency amendments to our Rules. The stakeholder engagement activity took the form of an electronic survey, which was set to stakeholders representing organisations such as professional bodies, unions, registrants' legal representatives, patient groups and the PSA. Responses were received from 33 stakeholders.

An analysis of the responses we received to the consultation is appended to this paper. A summary of the responses and our consideration of the comments received are set out below.

#### *Electronic service of notices and documents*

The majority of respondents (79%) agreed that it was appropriate for the HCPC to send notices electronically, and 88% of respondents were in agreement with the proposal to send documents electronically. 9% and 6% of respondents answered that they were unsure on the issue of electronic service of notices and documents respectively.

Four of the respondents (12%) did not agree that it was appropriate for the HCPC to serve notices electronically. Two of those respondents (6%) also did not agree that documents should be served electronically.

Respondents raised the following issues in their comments:

- The need to ensure email addresses are up to date;
- putting appropriate security measures in place, such as password protection;
- having systems for requesting, monitoring and recording acknowledgement of receipt notices;
- monitoring and recording 'bouncebacks';
- reverting to post if no response is received within a reasonable timeframe;
- communicating clearly that reasonable adjustments are available and providing them where appropriate;
- ensuring documents with large file sizes were delivered successfully and providing sufficient time for these to be reviewed; and
- making provision for registrants who might not have access to emails, computers or mobile phones, or be comfortable using computers and technology.

If the proposed changes to our Rules are granted, we will retain the provision to serve hard copy notices and documents by post. Indeed, we have continued to do so during the pandemic as a reasonable adjustment, or where parties do not have access to the relevant technology. We will review our guidance and communications to ensure it is clear to parties how they can request a reasonable adjustment.

Notices and documents sent by email are password protected. We will review our security processes to ensure we have a robust means of monitoring and recording receipt of the notices or documents sent electronically.

The period of time for registrants to review documents sent by email or hard copy is defined in our legislation. Registrants are able to request further time for review if required.

As part of their registration with us, registrants are required to maintain current and accurate contact details, to ensure they continue to receive communications from the HCPC. This requirement applies to both postal and email addresses. We will review our communications to ensure registrants are reminded of the need to keep their contact details up to date.

### *Remote hearings*

The majority of respondents (61%) agreed that it was appropriate for the HCPC to hold hearings remotely during the pandemic. Six of the respondents (18%) did not agree, and seven (21%) answered 'don't know' to this particular question.

Respondents who agreed or answered 'don't know' acknowledged that there was a place for remote hearings during the pandemic, and recognised this was in keeping with changes in practise for most healthcare and education providers in the sector. These respondents highlighted a number of actions the HCPC would need to take when holding remote hearings:

- making reasonable adjustments where required;
- providing appropriate support and guidance;
- taking learning from recent reviews of remote court hearings;

- consulting on and publishing reasonable grounds for request for hearings to be held in person;
- safeguarding registrants if any sanctions are imposed, particularly where the HCPC is aware of mental health issues.

Of those respondents who disagreed with the proposal for the HCPC to hold hearings remotely during the pandemic a number made comments. These comments highlighted the need for the HCPC to:

- seek consent from the registrant for the hearing to be held remotely;
- ensure there is a legal basis for the HCPC to hold remote hearings;
- oversee public attendance by ensuring this is only available at a controlled venue; and
- provide support and guidance.

If the proposed amendments to our Rules are granted we will continue to hold physical or hybrid hearings where appropriate to do so, such as to ensure vulnerable parties or those without access to technology can participate fairly and fully in the process. A risk assessment is carried out during the scheduling of hearings to ensure we identify any vulnerable parties and take their needs into account. Support is provided to registrants throughout the remote hearing process, including where a severe sanction has been imposed.

Pre-hearing technical support checks are provided by our Hearings team with registrants and witnesses, to talk participants through the remote hearing, how to use the technology and resolve any technical issues in advance of the hearing taking place. From October 2020, we will be able to hold hybrid hearings, where some parties attend by video conference and some parties attend in person, using our tribunal centre as a virtual hub. This will allow us to provide in-person support to vulnerable parties, as well as technical access to the remote proceedings for those parties who do not have the required technology.

Our Remote Hearings Protocol sets out our approach to conducting remote hearings during the pandemic. We have also produced guidance on remote hearings for panel Chairs and registrants. These documents, and our approach to holding remote hearings more widely, will be kept under regular review as our experience of running remote hearings develops, and in light of learning gleaned from the courts and the experiences of other regulators.

The purpose of amending our Rules is to give us the explicit provision to hold remote hearings in an emergency. Our established postponement and adjournment processes are the means by which we will resolve disagreements about how a hearing should proceed, if a registrant does not consent to a remote hearing. We consider this is a fair and proportionate way of balancing the wishes of the registrant with the need to protect the public interest and conclude hearings as efficiently as possible.

We are legally required to ensure hearings are accessible to the public, including hearings held remotely. The log in details for remote hearings are not advertised to the general public, but made available to public observers on application to the

Tribunal Service. This approach is consistent with other regulators and the expectations of the PSA.

We will continue to seek the views of stakeholders as we review and update our guidance and approach to hearings during the pandemic.

#### *Equality and diversity implications*

45% of respondents felt there weren't any aspects of our proposals that could result in equality and diversity implications. 42% felt that there were and 12% were unsure.

Those respondents who felt there were implications for equality and diversity raised the following issues:

- older people may struggle to use online technology.
- certain disabilities may impact an individual's ability to communicate online (sensory impairments, mental health issues, dyslexia, and others).
- home circumstances may impact those in the protected group of pregnancy or maternity.

Our consideration of the equality and diversity implications is set out in the attached Equality Impact Assessment (EIA).

### **Impact Assessments**

We have completed Equality and Financial Impact Assessments of the proposed amendments to our Rules.

The EIA sets out the actions we are able to put in place to address the impacts identified. As indicated above, should the amendments to our Rules be granted, we will retain the provision to hold physical hearings and send hard copy notices and documents. We will continue to do so where appropriate to ensure all participants have full and fair access to the fitness to practise process.

The Financial Impact Assessment (FIA) indicates that there is an increased cost to conducting hearings remotely, derived from the additional time required to undertake a remote hearing. This is offset by the costs saved on room hire, expenses, travel and accommodation. There is a further saving in terms of printing and postage costs as a result of electronic service.

The full impact assessments are included in the papers for Council's consideration.

### **Experience to date**

The adaptations to our procedures, which we are seeking to formalise in the amendments to our Rules, have been in place since the nationwide 'lockdown' began in March 2020.

Electronic service of notices and documents commenced in March. We have not received any concerns about electronic service since it has been operating.

Remote hearings commenced in April 2020, with the first full substantive hearings taking place remotely from July. Feedback on remote hearings held to date has been generally positive. There does not appear to have been an increase in matters being adjourned or going part heard because of the remote nature of the hearing. We have held remote hearings where observers have been present, including one hearing where a member of the press was present, which went well. No concerns have been raised with us during or after a hearing about fairness, procedure or conduct of the remote event.

Laura Coffey  
Head of Fitness to Practise

## **Consultation on amendments to the HCPC Rules (2020)**

Analysis of responses to the consultation on amendments to the HCPC Rules and our decisions as a result.

1. Introduction
2. Analysing your responses
3. Responses to the consultation
4. Summary and decisions
5. List of respondents

# 1. Introduction

## About the consultation

- 1.1. We undertook a targeted consultation between 25 August 2020 and 8 September 2020 on proposals to amend the Rules and enable us to:
  - serve notices electronically;
  - send documents electronically; and
  - hold hearings remotely during an emergency, such as the COVID-19 pandemic.
- 1.2. We informed a range of stakeholders about the consultation including: professional bodies; unions; service user representatives and the Professional Standards Authority.
- 1.3. We would like to thank all those who took the time to respond to the consultation document.

## About us

- 1.4. We are a regulator and were set up to protect the public. To do this, we keep a Register of health and care professionals who meet our standards for their professional skills and behaviour. Individuals on our register are called 'registrants'.
- 1.5. We currently regulate 15 health and care 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
  - Speech and language therapists

## About this document

- 1.6. This document summarises the responses we received to the consultation.

- 1.7. The document starts by explaining how we handled and analysed the responses we received, providing some overall statistics from the responses. Our responses and decisions as a result of the comments we received are set out in section five.
- 1.8. In this document, 'you' and 'your' is a reference to respondents to the consultation, 'we', 'us' and 'our' are references to the HCPC.

## 2. Analysing your responses

2.1. Now that the consultation has ended, we have analysed all the responses we received.

### Method of recording and analysis

- 2.2. The majority of respondents used our online survey tool to respond to the consultation. They self-selected whether their response was an individual or an organisation response, and, where answered, selected their response to each question (e.g. yes; no; unsure)<sup>1</sup>. They were also able to give us their comments on each question.
- 2.3. Where we received responses by email or by letter, we recorded each response in a similar format.
- 2.4. When deciding what information to include in this document, we assessed the frequency of the comments made and identified themes. This document summarises the common themes across all responses, and indicates the frequent comments made by respondents.

### Statistical analysis

- 2.5. We received 33 responses to the consultation document. 20 responses were made by professional bodies, 5 by unions, 5 by service user representatives and 1 by a regulator.
- 2.6. The breakdown of responses we received to each question are shown in the table below.

Questions <sup>2</sup>	Yes	No	Unsure
Q1. Do you agree, with our proposed permanent change, that it is appropriate for the HCPC to serve notices electronically?	26 (79%)	4 (12%)	3 (9%)
Q2. Do you agree, with our proposed permanent change, that it is appropriate for the HCPC to send documents electronically?	29 (88%)	2 (6%)	2 (6%)
Q3. Do you agree that it is appropriate for the HCPC to hold hearings remotely during the pandemic?	20 (61%)	6 (18%)	7 (21%)
Q4. Do you consider there are any aspects of our proposals that could result in equality and diversity implications for groups or individuals based on one or more of the protected characteristics, as defined by the Equality Act 2010? (Age, Disability, Gender reassignment, Marriage and civil	15 (45%)	14 (42%)	4 (12%)

<sup>2</sup> The percentages in this table have been rounded up and so may not add up to 100.

partnership, Pregnancy and maternity, Race, Religion or belief, Sex, Sexual orientation.			
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## Responses to consultation questions

2.7. This section contains comments made in response to the questions within the consultation document.

### **Q1. Do you agree, with our proposed permanent change, that it is appropriate for the HCPC to serve notices electronically?**

#### **Summary**

2.8. 79% of respondents agreed that it is appropriate for the HCPC to serve notices electronically, including the Professional Standards Authority. 12% of respondents disagreed and 9% were unsure.

#### **Comments**

2.9. Respondents noted that serving notices electronically was an appropriate approach for the HCPC to take with some noting that it is a modern means of communication which would be convenient and cost-effective. Many respondents however noted certain safeguards which would need to be put in place, these included the HCPC:

- ensuring email addresses are up to date;
- taking appropriate security measures, such as password protection;
- requesting, monitoring and recording acknowledgement of receipt notices;
- monitoring and recording 'bouncebacks';
- reverting to post if no response is received within a reasonable timeframe; and
- communicating clearly that reasonable adjustments are available and providing them where appropriate.

2.10. Of those respondents who did not agree that it was appropriate for the HCPC to serve notices electronically, one commented that it would 'not provide a reliable or effective method of confirming that the registrant has actually received the notice'. They suggested we should send notices by post, signed for post and email, concurrently.

**Q2. Do you agree, with our proposed permanent change, that it is appropriate for the HCPC to send documents electronically?**

**Summary**

- 2.11. 88% of respondents agreed that it is appropriate for the HCPC to send documents electronically, including the Professional Standards Authority. 6% disagreed and 6% were unsure.

**Comments**

- 2.12. Of those respondents who supported the HCPC serving documents electronically, many of the comments echoed those set out above for the service of notices electronically. A few respondents however noted the size of the files likely to be sent when bundles were included and highlighted the need for us to ensure these were delivered successfully and provide sufficient time for review.
- 2.13. One respondent who disagreed with the serving of documents electronically noted that some registrants might not have access to emails, computers or mobile phones, or be comfortable using computers and technology.

**Q3. Do you agree that it is appropriate for the HCPC to hold hearings remotely during the pandemic?**

**Summary**

- 2.14. 61% of respondents agreed that it is appropriate for the HCPC to hold hearings remotely during the pandemic. 18% of respondents disagreed and 21% were unsure.

**Comments**

- 2.15. Whilst the majority of respondents were supportive of the HCPC holding hearings remotely, including the Professional Standards Authority, a number of respondents highlighted a number of actions the HCPC would need to take in doing so:
- making reasonable adjustments where required;
  - providing appropriate support and guidance;
  - taking learning from recent reviews of remote court hearings;
  - consulting on and publishing reasonable grounds for request for hearings to be held in person;

- safeguarding registrants if any sanctions are imposed, particularly where the HCPC is aware of mental health issues;
- 2.16. Of those respondents who disagreed with the proposal for the HCPC to hold hearings remotely during the pandemic a number made comments. These comments highlighted the need for the HCPC to:
- seek consent from the registrant for the hearing to be held remotely;
  - ensure there is a legal basis for the HCPC to hold remote hearings;
  - oversee public attendance by ensuring this is only available at a controlled venue; and
  - provide support and guidance.

**Q4. Do you consider there are any aspects of our proposals that could result in equality and diversity implications for groups or individuals based on one or more of the following protected characteristics, as defined by the Equality Act 2010 and equivalent Northern Irish legislation?**

- **Age**
- **Disability**
- **Gender reassignment**
- **Marriage and civil partnership**
- **Pregnancy and maternity**
- **Race**
- **Religion and belief**
- **Sex**
- **Sexual orientation**

## Summary

- 2.17. 45% of respondents felt there weren't any aspects of our proposals that could result in equality and diversity implications. 42% felt that there were and 12% were unsure.

## Comments

- 2.18. The following issues were raised by respondents who felt there were aspects of our proposals that could result in equality and diversity implications.

- **Age:**
  - Older people may struggle to use online technology.
- **Disability:**

- Certain disabilities may impact an individual's ability to communicate online (sensory impairments, mental health issues, dyslexia, and others).
- **Pregnancy or maternity:**
  - Home circumstances were cited as the reason for impacts felt by this group.

### **3. Summary and decisions**

#### **Key themes**

- 3.1. The key themes arising from the comments respondents made in their response to the consultation were that:
- reasonable adjustments should be communicated and made available;
  - appropriate data protection should be in place;
  - consent should be sought from registrants;
  - guidance and support should be available;
  - further clarity on the approach to be taken should be developed and consulted on;
  - safeguards should be put in place to ensure notice and documents are received; and
  - safeguards should be put in place to protect registrants receiving final outcomes remotely.

#### **Equality and diversity implications**

- 3.2. Some respondents considered there may be equality and diversity implications for groups or individuals based on one or more of the following protected characteristics, as defined by the Equality Act 2010 and equivalent Northern Irish Legislation (as outlined above in our analysis of Q4 responses):
- Age.
  - Disability.
  - Gender reassignment.
  - Marriage and civil partnership.
  - Pregnancy and maternity.
  - Race
  - Religion or belief.
  - Sex.
  - Sexual orientation.
- 3.3. We will take account of this feedback in completing our equality impact assessment for all the proposals we plan to take forward, to further identify and address any potential inequalities.

## Our decisions

3.4. The following are the decisions we have made following the consultation.

- We will continue to provide reasonable adjustments for participants in the fitness to practise process who are unable to receive notices or documents electronically.
- We will continue to hold physical or hybrid hearings where appropriate to do so, such as to ensure vulnerable parties, those who require a reasonable adjustment or those without access to technology, can participate fully and fairly in the process.
- We will use our established postponement and adjournment processes to resolve disagreements about what form (remote, physical or hybrid) a hearing should take. We consider this is a fair and proportionate way of balancing the wishes of the registrant with our statutory duty to protect the public and the need to conclude hearings as efficiently and safely as possible.
- Risk assessments are carried out during the scheduling of final hearings to ensure we identify participants' needs, are aware of any vulnerable parties, and can provide appropriate support. We also provide a pre-hearing technical check and run through with participants. We will review the guidance and support we have available in relation to registrants receiving sanction decisions in a remote environment.
- We will review our current communications and documentation to ensure it is clear how participants can request a reasonable adjustment.
- Notices and documents sent by email are sent password protected. We will review our security processes to ensure we have a robust means of monitoring and recording receipt of the notices or documents sent electronically.
- We are legally required to ensure our hearings are accessible to the public, including hearings held remotely. Log in details for remote hearings are not advertised to the general public, but made available to public observers on application to the Tribunal Service.
- We have published guidance on our approach to remote hearings. We will keep this guidance, and our approach, under regular review as our experience of running remote hearings develops, and in light of learning gleaned from the experience of the courts, other regulators and feedback from participants. We will seek the views of our stakeholders as our approach and guidance develops.

## **4. List of respondents**

4.1. Below is a list of all the organisations that responded to the consultation

5 St Andrew's Hill  
Academy for Healthcare Science  
Action against Medical Accidents  
Association of Educational Psychologists  
Association of Perioperative Practice  
BLM LLP  
Brabners LLP  
British and Irish Orthoptic Society  
British Association for Music Therapy  
British Association of Art Therapists  
British Association of Occupational Therapists  
British Society for Clinical Electrophysiology of Vision  
College of Podiatry  
Deans Court Chambers  
GMB  
Institute of Biomedical Science  
Institute of Chiropodists and Podiatrists  
Manchester University NHS Foundation Trust  
National Community Hearing Association  
NHS Education for Scotland  
Professional Standards Authority  
Royal College of Occupational Therapists  
Royal College of Speech and Language Therapists  
Society of Radiographers  
The Association of Renal Technologists  
The Institute of Medical Illustrators  
The Patients Association  
UNISON  
Unite the Union

## Equality Impact Assessment (Level 2)

For background information on how to complete this form, read **Appendix 2**. Delete [guidance text](#) as you complete the form. Guidance text is suggested (not required) content.

### Section 1: Project overview

<b>Project title: Emergency amendments to the Health and Care Professions Council Rules</b>	
<b>Name of assessor: Laura Coffey</b>	<b>Version: 1</b>

#### What are the intended outcomes of this work?

The current pandemic has meant we have had to adapt some aspects of our fitness to practise and registration appeals processes and procedures, particularly those which had previously been dependent on staff, parties to a case or other stakeholders having a physical presence in our offices or hearings centres. Our aim in making the amendments to our Rules, as set out below, is to ensure that we are able to continue to fulfil our statutory duty to protect the public, progress fitness to practise investigations and conclude hearings as efficiently and safely as possible.

We also recognise that we continue to operate against a wider background of uncertainty caused by the pandemic, in particular the possibility of a second wave of the pandemic and further local or national 'lockdowns' in the months to come. The amendments we plan to make to our Rules would provide stability and a level of certainty for internal and external stakeholders by ensuring that key regulatory processes can continue, regardless of any restrictions on movement, gatherings of people, or social distancing that might be imposed by the UK or devolved governments.

In the proposed changes to our Rules we are seeking to formalise adaptations to our fitness to practise and registration appeals processes and procedures that we have been operating during the pandemic. There are two changes that we wish to make to our Rules:

#### 1. Service of notice and documents

Currently, we are required to send notice or other documents to the relevant party by post. We are proposing to amend our Rules to allow us the provision to serve notice and send documents electronically, to the email address provided to the HCPC by the relevant party.

This amendment would be a permanent change to our Rules.

#### 2. Remote hearings

Prior to the pandemic, fitness to practise and registration appeal hearings were held at one of our hearings centres across the UK. The current pandemic necessitates that hearings should be

undertaken in such a way as to minimise the risk of transmission of COVID-19, avoid any unnecessary delays and ensure that public protection is upheld. The use of remote hearings, where appropriate, is critical to our ability to continue to hold hearings in a safe and efficient manner.

We are therefore proposing to amend our Rules to give us the express provision to conduct meetings and hearings remotely, using audio and/or video conferencing facilities.

This amendment would only apply when there is a need to bring in emergency measures for example during the COVID-19 pandemic.

In relation to both the service of notices and documents and remote hearings, the HCPC will continue to make reasonable adjustments, as required, to ensure participants can engage fairly and fully in the fitness to practise and registration appeal process.

#### **Who will be affected?**

- the public, including service users and colleagues in health and care (as witnesses);
- registrants;
- HCPC employees and partners.

## **Section 2: Evidence and Engagement**

Lack of data should not prevent a thorough EIA. Be proactive in seeking the information you need.

#### **What evidence have you considered towards this impact assessment?**

- Benchmarking with other regulators;
- Court protocol and other judicial system documents on conducting remote hearings during the pandemic and case law;
- stakeholder feedback from FTP Representatives Bodies Forum;
- feedback from HCPC panel members;
- team discussions.

#### **How have you engaged stakeholders in gathering or analysing this evidence?**

- Consultation survey with stakeholders representing registrant and patient groups, as well as PSA;
- Meetings with other regulators;
- Meetings with FTP Representatives Bodies Forum.

## **Section 3: Analysis by equality group**

The Equality and Human Rights Commission offers information on the [protected characteristics](#).

Describe any impact to groups or individuals with the protected characteristics listed below that might result from the proposed project. Draw upon evidence where relevant.

For all characteristics, consider **discrimination, victimisation, harassment and equality of opportunity** as well as issues highlighted in the guidance text.

**Age** (includes children, young people and older people)

Older people may be less likely to have access to the internet/email and as a result could be disadvantaged by the move to remote hearings and email communications. Older people may also feel less confident in using email or the video conferencing software we would use to undertake remote hearings, even if they did have internet access.

The use of remote hearings could therefore negatively impact on the ability of older people to participate fairly in the fitness to practice process.

**Disability** (includes physical and mental health conditions. Remember 'invisible disabilities')

In relation to the service of notices and documents by email, this may impact participants who have difficulty reading or understanding information presented electronically, or who require reasonable adjustments that are more difficult to provide in a soft format rather than hard format (e.g. different coloured paper for visual impairments).

The use of remote hearings may impact participants who are unable to access or use the technology due to disability or a health condition, who require the support of an advocate or support service such as a sign language interpreter, or who may require significant adaptations to enable them to use it. Fitness to practise hearings can be stressful and create additional anxiety for those who have mental health conditions. Where a registrant or vulnerable witness is participating in a remote hearing from their own home or other site in isolation, they may not have access to support mechanisms and contacts they require.

**Gender reassignment** (consider that individuals at different stages of transition may have different needs)

No impacts identified

**Marriage and civil partnerships** (includes same-sex unions)

No impacts identified

**Pregnancy and maternity** (includes people who are pregnant, expecting a baby, up to 26 weeks post-natal or are breastfeeding)

No impacts identified.

**Race** (includes nationality, citizenship, ethnic or national origins)

No impacts identified

**Religion or belief** (includes religious and philosophical beliefs, including lack of belief)

No impacts identified

**Sex** (includes men and women)

No impacts identified

**Sexual orientation** (includes heterosexual, lesbian, gay, bi-sexual, queer and other orientations)

No impacts identified.

**Other identified groups**

Participants in the FTP process who are disadvantaged by their socio-economic status, residency status or area inequality are more likely to face barriers to accessing the technology required to receive correspondence and documents electronically, or to participate in a virtual hearing. Participants whose first language is not English and who require the assistance of a translator may find the remote environment more challenging.

Registrants or witnesses living in poor quality or high occupancy housing may not have access to privacy or the appropriate space required to participate fully in a remote hearing.

**Four countries diversity**

No impact identified. In relation to remote hearings, this will only be in force during an emergency and we will therefore be led by legislation and measures imposed by the UK and/or devolved governments. Our legislation requires us to hold hearings in the country of the UK in which the registrant resides. Conducting a remote hearing where the registrant is able to remain in their home country is compliant with this requirement.

## Section 4: Welsh Language Scheme

**How might this project engage our commitments under the Welsh Language Scheme?**

Find information about our Welsh Language Scheme on our website, [here](#).

N/A

## Section 5: Summary of Analysis

### What is the overall impact of this work?

The overall impact of the changes we are proposing to make to our Rules can be summarised as follows:

- Potential barriers to participating fully and fairly in the FTP process caused by lack of access to, or inability to use, email or remote hearing technology;
- Potential barriers to participating fully and fairly in the FTP process caused by inadequate accommodation or lack of privacy in which to undertake a remote hearing;
- Reduced ability to provide reasonable adjustments if these cannot be accommodated in soft copies of documents and correspondence sent by email, or in a remote environment;
- Impact on participants with mental health conditions, or who are vulnerable, who may find the undertaking a remote hearing from their home without access to the usual support services, isolating and stressful.

## Section 6: Action plan

Summarise the key actions required to improve the project plan based on any gaps, challenges and opportunities you have identified through this assessment.

Include information about how you will monitor any impact on equality, diversity and inclusion.

### Summary of action plan

The changes to our Rules that we are seeking formalise adaptations to our ways of working that we introduced in response to the pandemic. Whilst we have not received any EDI concerns from participants to the process since we introduced these ways of working, we are mindful of the potential impacts. We are therefore taking the following actions to ensure barriers to access are reduced and that we can continue to support parties effectively throughout the FTP process:

- We have the provision to be able to send hard copy documents and correspondence to parties on request;
- We have introduced pre-hearing case management conferences to identify any potential issues with participants' engagement in a remote hearing in advance, to allow sufficient time to resolve these.
- We have also introduced pre-hearing technical checks with registrants and witnesses to ensure they can access the technology and to familiarise parties with how a remote hearing will appear and operate;
- We have developed specific guidance for registrants and panel members on remote hearings. For the latter this includes guidance around ensuring the welfare of all participants during the hearing, including when handing down determinations to registrants;

- We have introduced a Remote Hearings Protocol which sets out how we will undertake such hearings, and includes specific guidance on hearing and witness management. Legal advice was sought on the development of the protocol and this has been shared with PSA and registrant representatives.
- Our Tribunal Centre in Kennington is being adapted to allow us to carry out hybrid hearings. This is where some participants attending by telephone or video link, and other participants attending in person at a physical venue. This will allow us to use the tribunal centre as a virtual hub for those witnesses or registrants who require additional support and/or do not have access to technology.
- We have always been able to use video conferencing facilities to allow a vulnerable person to attend an in-person hearing where it would not be appropriate for them to attend physically. This option will continue to be provided.
- We will continue to seek feedback on our hearings and will identify any trends or themes emerging that relate to EDI, and will review our processes accordingly.
- We have undertaken a stakeholder consultation survey on the proposed changes to our Rules, which includes a specific question on potential impacts to EDI. Stakeholders consulted include registrants' representatives, patient groups and the PSA. The Department of Health and Social Care were also involved in the development of the consultation survey.

Below, explain how the action plan you have formed meets our public sector equality duty.

**How will the project eliminate discrimination, harassment and victimisation?**

N/A

**How will the project advance equality of opportunity?**

N/A

**How will the project promote good relations between groups?**

N/A

**An action plan template is appended for specific action planning.**



EDI should be an ongoing consideration throughout any project.

Where EDI issues are raised after this impact assessment and action plan have been agreed, you should make a note and update this document if necessary. Alternatively, you might choose to record changes using an EDI reflection form.

**Any project identified as unlawfully discriminatory must not be progressed.**

<b>Reflection completed by: Laura Coffey</b>	<b>Date: 27/08/20</b>
<b>Reflection approved by:</b>	<b>Date:</b>

## Appendix 1: Action plan template

This template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your project.

Issue identified	Action(s) to be taken	Person responsible and their Directorate	Target date for delivery
<p>Potential barriers to participating fully and fairly in the FTP process caused by lack of access to, or inability to use, email or remote hearing technology.</p>	<ul style="list-style-type: none"> <li>• Correspondence and documents to be provided by hard copy / post on request;</li> <li>• Pre-hearing case management calls and technology checks to identify and resolve any technical or other barriers to participating in a remote hearing, and to enable participants to become familiar with the remote process prior to the hearing.</li> <li>• Tribunal Centre set up to support hybrid hearings and act as a virtual hub should participants not have access to the required technology or require additional support;</li> <li>• Video link software for vulnerable parties continues to be available.</li> </ul>	<p>Claire Baker, Deborah Oluwole, Laura Coffey - FTP</p>	<p>Completed and ongoing.</p> <p>Delivery of Tribunal Centre for hybrid hearings due end of September 2020.</p>
<p>Potential barriers to participating fully and fairly in the FTP process caused by inadequate accommodation or lack of privacy in which to undertake a remote hearing.</p>	<ul style="list-style-type: none"> <li>• Tribunal Centre adapted to support hybrid hearings and act as a virtual hub should participants not have access to the required technology or require additional support;</li> <li>• Video link software for vulnerable parties to engage in proceedings from another location continues to be available.</li> </ul>	<p>Claire Baker, Deborah Oluwole, Laura Coffey - FTP</p>	<p>Delivery of Tribunal Centre for hybrid hearings due end of September 2020.</p> <p>Video link software already available.</p>

<p>Reduced ability to provide reasonable adjustments if these cannot be accommodated in soft copies of documents and correspondence sent by email, or in a remote environment.</p>	<ul style="list-style-type: none"> <li>• Correspondence and documents to be provided by hard copy / post on request.</li> <li>• Pre-hearing case management calls and technology checks to identify and resolve any technical or other barriers to participating in a remote hearing, and to enable participants to become familiar with the remote process prior to the hearing.</li> <li>• Tribunal Centre set up to support hybrid hearings and act as a virtual hub should participants not have access to the required technology or require additional support.</li> </ul>	<p>Claire Baker, Deborah Oluwole, Laura Coffey - FTP</p>	<p>Completed and ongoing.</p> <p>Delivery of Tribunal Centre for hybrid hearings due end of September 2020.</p>
<p>Impact on participants with mental health conditions, or who are vulnerable, who may find undertaking a remote hearing from their home without access to the usual support services, isolating and stressful.</p>	<ul style="list-style-type: none"> <li>• Pre-hearing case management calls and technology checks to identify and resolve any technical or other barriers to participating in a remote hearing, and to enable participants to become familiar with the remote process prior to the hearing.</li> <li>• Tribunal Centre set up to support hybrid hearings and act as a virtual hub should participants not have access to the required technology or require additional support.</li> <li>• Video link software for vulnerable parties to engage in proceedings from another location continues to be available;</li> <li>• Details of support services available continues to be provided on the HCPTS website;</li> </ul>	<p>Claire Baker, Deborah Oluwole, Laura Coffey - FTP</p>	<p>Completed and ongoing.</p> <p>Delivery of Tribunal Centre for hybrid hearings due end of September 2020.</p>

	<ul style="list-style-type: none"><li>• Panel members have been issued with guidance on conducting remote hearings, and supporting registrants through the process;</li><li>• Hearings Officers will remain on the remote hearing call with the registrant after the hearing to offer support.</li></ul>		
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## Appendix 2: How to complete this form

This form is intended for use in **new or major** projects or policies. It is structured to consider the 9 protected characteristics set out in the Equality Act 2010. It is therefore important that you complete every section of the form.

You should consider and document **positive and negative** impacts which might result from the proposed project. Impacts might be **indirect**. If you consider that there will be **no impact** to groups or individuals with a particular protected characteristic, this **should still be documented**.

The equality impact assessment is not intended as a 'tick box' exercise. Instead, it offers a tool to help you embed equality, diversity and inclusion throughout your work planning and delivery. We encourage you to consult with colleagues, stakeholders and where possible, people with protected characteristics throughout this process.

For more guidance and information, please refer to the **Equality impact assessment guidance** document.

Should you have any queries or suggestions, please contact the Policy and Standards team on 0207 840 9815 or [policy@hcpc-uk.org](mailto:policy@hcpc-uk.org). Your EDI Manager is Katherine Timms.

## Financial Impact Analysis

### Section 1: Context

**Project title: HCPC rule amendment – fitness to practise processes and procedures.**

**Name of assessor: Finance**

**Version: 1.4**

#### **What are the intended outcomes of this work?**

Our Rules are made under the Health Professions Order 2001, and set out the detailed procedures and requirements for several key HCPC functions. We are seeking to make amendments to the following Rules:

- Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003
- Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003
- Health and Care Professions Council (Health Committee) (Procedure) Rules 2003
- Health and Care Professions Council (Registration Appeals) Rules 2003

There are two changes that we wish to make to our Rules.

#### **1. Service of notice and documents**

Currently, we are required to send notice or other documents to the relevant party by post. We are proposing to amend our Rules to allow us the provision to serve notice and send documents electronically, to the email address provided to the HCPC by the relevant party.

This amendment would be a permanent change to our Rules.

#### **2. Remote hearings**

Prior to the pandemic, fitness to practise and registration appeal hearings were held at one of our hearings centres across the UK. The current pandemic necessitates that hearings should be undertaken in such a way as to minimise the risk of transmission of COVID-19, avoid any unnecessary delays and ensure that public protection is upheld. The use of remote hearings, where appropriate, is critical to our ability to continue to hold hearings in a safe and efficient manner.

We are therefore proposing to amend our Rules to give us the express provision to conduct meetings and hearings remotely, using audio and/or video conferencing facilities.

This amendment would only apply when there is a need to bring in emergency measures for example during the COVID-19 pandemic.

In relation to both the service of notices and documents and remote hearings, the HCPC will make reasonable adjustments, as required, to ensure participants can engage fairly and fully in the fitness to practise and registration appeal process.

## Section 2: Economic case

### Is it the best balance of costs, benefit and risks? Has a range of options been considered?

#### Benefit:

- The electronic servicing of notice and document will reduce the cost of postage and printing. This is more environmentally friendly and puts less burden on the postal service.
- Electronic service would be a permanent change to our Rules, thereby conferring a permanent cost benefit.
- Risk of non-delivery or misplacement of documents by relevant parties have reduced.
- Ability to hold remote hearings will enable the HCPC to fulfil our statutory duty to protect the public in an emergency, and continue to undertake hearings safely and efficiently.
- Saving can be made from partner travel and accommodation costs as well as room hire costs.

#### Cost:

- Increased cost to IT infrastructure to enable the remote hearing to take place.
- Experience for the virtual hearings held to date indicates that there is approximately a 50% reduction in productivity in the time taken for the hearing to conclude. This is due to the time required to manage the technical elements of the hearing, additional breaks built into the hearing day due to the intensity of screen time, the need for additional time required for remote discussions and additional time for breaks to allow separate discussions between the parties. Final hearings are being listed with the expectation they will take longer to conclude, averaging 4.5 days instead of 3 days.

#### Risks:

- Technology fails before or during a hearing meaning it takes longer or has to be adjourned and reconvened, accruing additional costs.
- A hearing cannot take place remotely and needs to be held in person, accruing the usual venue, travel, accommodation and witness costs.
- Registrants do not have a current email address, requiring hard copy documents or notices to be posted.
- Technical failings with our bundle portal for panel members requires hard copy documents to be sent.
- Virtual nature of a hearing creates challenges to accessing electronic bundles (e.g. participants only have one screen from which to use video conferencing software and read bundle) meaning increased requests for hard copy documents.
- The uncertain nature of the current pandemic and the possibility of further local or national lockdowns in the weeks or months to come, means there is a risk to our ability to maintain key regulatory processes, ensure public protection and conclude fitness to practise hearings safely and effectively if we were not able to undertake remote hearings

#### Other options and mitigations:

- If the Rules change is granted, we will retain the provision to send notices and documents by post if requested or as a reasonable adjustment, and we continue to budget for this.
- We are planning to bring the bundle portal online for registrants in the New Year, which would further reduce our printing and postage costs.
- If the Rules change is granted, we will also retain the provision to hold physical and hybrid hearings. This will provide the flexibility to convene the most efficient and appropriate type

of hearing to ensure the timely, safe and fair resolution of fitness to practise cases. We continue to budget for this.

- We are currently conducting a survey of our partners to understand who is willing and able to travel to participate in hybrid or physical hearings where necessary. This information will enable us to empanel members close to hearing venues, where possible and appropriate, reducing accommodation and travel expenses.
- Pre-hearing technical checks are carried out by the Tribunal Service with participants, to ensure that the technology works and participants are comfortable using it prior to the hearing itself.
- Our bundle portal supplier provides frontline technical support as part of the contract, meaning any technical issues can be resolved quickly. Bundles are uploaded to the portal at least two weeks before the hearing to ensure panel members have sufficient time to read, download and prepare the bundles prior to a hearing. This also allows contingency time should there be technical issues.

### Section 3: Commercial case

#### Is it viable? Can we secure a value for money deal?

As part of the response to the Pandemic, we have already explored into distribution of electronic bundles to hearing panel members. This has been proven successful. We will be looking to working with the same supplier for the serving of notice and documents for registrants.

Since the lockdown we have been serving registrant bundles via email and will continue to do so before the new capacity is set up with the supplier.

We have also been working closely with IT and project team to ensure the IT infrastructure can support the ability to hold remote hearings. Since July 2020, we have concluded 22 final hearings remotely. There will be no additional impact on IT infrastructure as a direct result of the change in rules.

### Section 4: Financial case

#### Are the costs realistic and affordable? What factors have we considered?

The proposed changes are an extension to what HCPC has been adapted as a result of the pandemic, therefore to assess the impact, we have compared actual spends or forecast spends against the original budget (when pandemic has not been taken into account).

##### 1. Service of notice and other documents

YTD printing and postage costs in FTP was £11k until August 2020, averaging £2.2k per month. As there has been little transaction at the beginning of lockdown, we assume average spending will be £3k per month. Compared to an average forecasted monthly cost of £10.3k this is a saving of £7.3k per month. Which is **£87.6k** per year. Monthly cost of electronic bundles is expected to be approx. £1k per month, which is **£12k** per year. Therefore, net saving from electronic servicing of notice and other documents to registrant is expected to be **£75.6k**.

##### 2. Remote hearings

Within forecast, we have budgeted for £20k per month on room hire costs, if hearings can be performed remotely, this is a saving of **£240k** per annum.

We have also forecasted to spend **£607k** per annum on witness, staff and partner travel and accommodation for final hearings. If all hearings are held remotely, this will be a saving for us.

As mentioned above, the change will cause a reduction in productivity. We are currently forecasting to go through 25 final hearings per month by January 21.

Remote hearings are expected to take 1.5 days longer than physical hearings based on the current experience. This is 50% higher than the average hearing days of 3 days. Daily cost of panel members is £1.8k, therefore the loss in productivity will cause an increase in cost of £2.7k per hearing. This is an additional cost of £57.5k per month (£2.7k x 25 hearings), which is **£799k** per year.

Overall, the net impact of remote hearings is a saving of **£48k** per year.

## Section 5: Summary of Analysis

### What is the overall impact of this work?

The change in rule is an extension of the current arrangement established as a response to Covid-19.

There is no significant additional impact on IT infrastructure or other resourcing factors as a result of the change.

Financial impact of the electronic servicing of notice and other document is a saving of £75.6k per annum and remote hearings will create a saving of £48k per annum.

**2020 No. 0000**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**HEALTH PROFESSIONS**

**The Health and Care Professions Council (Coronavirus)  
(Amendment) Rules Order of Council 2020**

<i>Made</i> - - - -	2020
<i>Laid before Parliament</i>	2020
<i>Laid before the Scottish Parliament</i>	2020
<i>Coming into force</i> - -	2021

At the Council Chamber, Whitehall, the [\*] day of December 2020

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 (Coronavirus) (Amendment) Rules 2020, which are set out in the Schedule to this Order, in exercise of the powers conferred by articles 26(3), 32, 37(4) and (5), and 41(2) of the Health Professions Order 2001(a).

In accordance with article 41(3) of that Order, the Health and Care Professions Council has consulted representatives of groups of persons who appear likely to be affected by the proposed rules.

In accordance with articles 41(1) and 42 of that Order, the 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 and Care Professions Council (Coronavirus) (Amendment) Rules Order of Council 2020 and comes into force on [\*] th December 2020.

**Privy Council approval**

2. Their Lordships, having taken the Rules into consideration, are pleased to, and do approve them.

*Richard Tillbrook*

(a) S.I. 2002/254, amended by S.I. 2009/1182 and S.I. 2019/1436; there are other amending instruments but none is relevant.

## SCHEDULE

Article 2

### The Health and Care Professions Council (Coronavirus) (Amendment) Rules 2020

The Health and Care Professions Council makes the following Rules in exercise of the powers conferred by articles 26(3), 32, 37(4) and (5), and 41(2) of the Health Professions Order 2001.

The Council has consulted in accordance with article 41(3) of that Order with representatives of groups of persons who appear likely to be affected by the proposed rules.

#### **Citation and commencement**

1. These Rules may be cited as the Health and Care Professions Council (Coronavirus) (Amendment) Rules 2020 and come into force on [\*] th January 2021.

#### **Amendments to the Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003**

2.—(1) The Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003(a) are amended as follows.

(2) After rule 2 (interpretation), insert—

#### **“Emergency virtual meetings and hearings**

2A.—(1) In an emergency, a meeting or hearing arranged under these Rules may be conducted using audio or video conferencing facilities.

(2) In cases where a meeting or hearing is held in accordance with paragraph (1)—

- (a) any notice required to be sent under these Rules giving notice of venue must include details of the audio or video conferencing arrangements required to access the hearing; and
- (b) where a hearing is being held by audio or video conferencing, the Committee may order that the hearing is to be held in private.

(3) In this rule, an emergency exists where the Registrar considers that an emergency, as defined in Article 9A(12) of the Order, has occurred, is occurring or is about to occur.”.

(3) For rule 3 (service of documents) substitute—

#### **“Service of Documents**

3. In these Rules a reference to the sending of a notice or other document to any person is a reference to it being—

- (a) in the case of the Council, its committees or the Registrar—
  - (i) sent by post to or left at the offices of the Council, or
  - (ii) sent by electronic mail to an electronic mail address which the Council has notified to the sender as an address for communications;
- (b) in the case of a registrant—
  - (i) sent by post to or left at the registrant’s address as it appears in the register, or

(a) Rules as contained in the Schedule to the Health Professions Council (Investigating Committee) (Procedure Rules) Order of Council 2003 (S.I. 2003/1574).

- (ii) sent by electronic mail to an electronic mail address which the registrant has notified to the Council as an address for communications;
- (c) in any other case—
  - (i) sent by post to or left at the last known address of that person, or
  - (ii) sent by electronic mail to an electronic mail address which the person has notified to the Council as an address for communications.”.
- (4) At the beginning of rule 8(1)(a) insert “subject to rule 2A(2)(b).”.

**Amendments to the Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003**

**3.**—(1) The Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003(a) are amended as follows.

- (2) After rule 2 (interpretation), insert—

**“Emergency virtual meetings and hearings**

**2A.**—(1) In an emergency, a meeting or hearing arranged under these Rules may be conducted using audio or video conferencing facilities.

- (2) In cases where a meeting or hearing is held in accordance with rule 2A(1)—

- (a) any notice required to be sent under these rules giving notice of venue must include details of the audio or video conferencing arrangements required to access the hearing; and
- (b) where a hearing is being held by audio or video conferencing, the Committee may order that the hearing is to be held in private.

(3) In this rule, an emergency exists where the Registrar considers that an emergency, as defined in Article 9A(12) of the Order, has occurred, is occurring or is about to occur.”.

- (3) For rule 3 (service of documents) substitute—

**“Service of Documents**

**3.** In these Rules a reference to the sending of a notice or other document to any person is a reference to it being—

- (a) in the case of the Council, its committees or the Registrar—
  - (i) sent by post to or left at the offices of the Council, or
  - (ii) sent by electronic mail to an electronic mail address which the Council has notified to the sender as an address for communications;
- (b) in the case of a registrant—
  - (i) sent by post to or left at the registrant’s address as it appears in the register, or
  - (ii) sent by electronic mail to an electronic mail address which the registrant has notified to the Council as an address for communications; and
- (c) in any other case—
  - (i) sent by post to or left at the last known address of that person, or
  - (ii) sent by electronic mail to an electronic mail address which the person has notified to the Council as an address for communications.”.

- (4) At the beginning of rule 10(1)(a) insert “subject to rule 2A(2)(b).”.

- (5) At the beginning of rule 13(10), for “A” substitute “Subject to rule 2A, a”.

(a) Rules as set out in the Schedule to the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules Order of Council 2003 (S.I. 2003/1575).

## **Amendments to the Health and Care Professions Council (Health Committee) (Procedure) Rules 2003**

4.—(1) The Health and Care Professions Council (Health Committee) (Procedure) Rules 2003(a) are amended as follows.

(2) After rule 2 (interpretation), insert—

### **“Emergency virtual meetings and hearings**

2A.—(1) In an emergency, a meeting or hearing arranged under these Rules may be conducted using audio or video conferencing facilities.

(2) In cases where a meeting or hearing is held in accordance with paragraph (1)—

- (a) any notice required to be sent under these rules giving notice of venue must include details of the audio or video conferencing arrangements required to access the hearing; and
- (b) where a hearing is being held by audio or video conferencing, the Committee may order that the hearing is to be held in private.

(3) In this rule, an emergency exists where the Registrar considers that an emergency, as defined in Article 9A(12) of the Order, has occurred, is occurring or is about to occur.”

(3) For rule 3 (service of documents) substitute—

### **“Service of Documents**

3. In these Rules a reference to the sending of a notice or other document to any person is a reference to it being—

- (a) in the case of the Council, its committees or the Registrar—
  - (i) sent by post to or left at the offices of the Council, or
  - (ii) sent by electronic mail to an electronic mail address which the Council has notified to the sender as an address for communications;
- (b) in the case of a registrant—
  - (i) sent by post to or left at the registrant’s address as it appears in the register, or
  - (ii) sent by electronic mail to an electronic mail address which the registrant has notified to the Council as an address for communications; and
- (c) in any other case—
  - (i) sent by post to or left at the last known address of that person, or
  - (ii) sent by electronic mail to an electronic mail address which the person has notified to the Council as an address for communications.”

(4) At the beginning of rule 10(1)(a), insert “subject to rule 2A(2)(b),”.

(5) At the beginning of rule 13(10), for “A” substitute “Subject to rule 2A, a”.

## **Amendments to the Health Professions Council (Registration Appeals) Rules 2003**

5.—(1) The Health Professions Council (Registration Appeals) Rules 2003(b) are amended as follows.

(2) After rule 2 (interpretation), insert—

- (a) Rules as set out in the Schedule to the Health Professions Council (Health Committee) (Procedure) Rules Order of Council 2003 (S.I. 2003/1576).
- (b) Rules as set out in the Schedule to the Health Professions Council (Registration Appeals) Rules Order of Council 2003 (S.I. 2003/1579).

### **“Emergency virtual meetings and hearings**

**2A.**—(1) In an emergency a meeting or hearing arranged under these Rules may be conducted using audio or video conferencing facilities.

(2) In cases where a meeting or hearing is held in accordance with paragraph (1)—

- (a) any notice required to be sent under these rules giving notice of venue must include details of the audio or video conferencing arrangements required to access the hearing; and
- (b) where a hearing is being held by audio or video conferencing, the Committee may order that the hearing is to be held in private.

(3) In this rule, an emergency exists where the Registrar considers that an emergency, as defined in Article 9A(12) of the Order, has occurred, is occurring or is about to occur.”.

(3) For rule 3 (service of documents) substitute—

### **“Service of Documents**

**3.** In these Rules a reference to the sending of a notice or other document to any person is a reference to it being—

- (a) in the case of the Council, the Committee, an Appeal Panel or the Registrar—
  - (i) sent by post to or left at the offices of the Council, or
  - (ii) sent by electronic mail to an electronic mail address which the Council has notified to the sender as an address for communications;
- (b) in the case of the appellant—
  - (i) sent by post to or left at the address identified in the appellant’s notice of appeal, or
  - (ii) sent by electronic mail to an electronic mail address which the appellant has notified to the Council as an address for communications; and
- (c) in any other case—
  - (i) sent by post to or left at the last known address of that person, or
  - (ii) sent by electronic mail to an electronic mail address which the person has notified to the Council as an address for communications.”.

(4) At the beginning of rule 14(1), insert “subject to rule 2A(2)(b),”.

Given under the seal of the Health and Care Professions Council [\*] th day of December 2020.



*Christine Elliott*  
Chair

*John Barwick*  
Registrar

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order approves Rules made by the Health and Care Professions Council (HCPC). 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.

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 amendments also allow committees to order that hearings and meetings held by audio or video conference are to be held in private.