

Health Professions Council – 26 March 2009

Consultation on Proposed Education and Training Committee Rules

Executive Summary and Recommendations

Introduction

Following the meeting of the Health Professions Council on 10 February 2009, all Council Members and alternates were sent a copy of the draft Education and Training Committee (ETC) rules. As previously explained, the Department for Health is looking to increase the independence of regulators by removing the need for the exercise of their rule making powers to always be subject to Privy Council and Parliamentary oversight. It is therefore in the gift of the Council to approve these rules without the need for wider consultation.

Members were asked to submit comments on the draft Rules by Friday 27 February 2009 and a verbal summary will be provided at this meeting.

Please now find attached the draft Rules for the ETC.

Decision

The Council is asked to approve the Education and Training Committee Rules attached.

Background information

None

Resource implications

None

Financial implications

None

Background papers

None

Appendices

None

Date of paper

9 March 2009

The Health Professions Council (Education and Training Committee) (Constitution) Rules 2009

The Health Professions Council makes the following Rules in exercise of its powers under paragraphs 17(1) and 18(2) of Schedule 1 to the Health Professions Order 2001.

PART 1 Introductory

Citation and commencement

1. These Rules may be cited as the Health Professions Council (Education and Training Committee) (Constitution) Rules 2009 and shall come into force on [DATE].

Interpretation

2. In these Rules—

“Committee” means the Education and Training Committee;

“final outcome” in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought; or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“licensing body” means—

- (a) any body, other than the Council, anywhere in the world that licenses or regulates any profession;
- (b) the Council for the Professions Supplementary to Medicine, prior to its abolition by virtue of the Order;

“lay member” means a member who—

- (a) is not and never has been a registrant, or registered under the 1960 Act or in the AODP register, the AEP register or the BPS register; and
- (b) does not hold a qualification that would entitle them to apply for registration under the Order;

“member”, unless the context otherwise requires, means a member of the Committee and includes the chair and any deputy chair;

“the Order” means the Health Professions Order 2001;

“spent conviction” means—

- (a) in relation to a conviction in a court in Great Britain, a conviction that is a spent conviction for the purpose of the Rehabilitation of Offenders Act 1974; or
- (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

PART 2

Education and Training Committee

Education and Training Committee

3.—(1) The Education and Training Committee shall consist of not more than 30 members appointed by the Council and the membership shall include—

- (a) at least 3 members of the Council;
- (b) at least 1 registrant from each of the relevant professions; and
- (c) at least 5 lay members.

(2) Of the members appointed in accordance with paragraph (1)—

- (a) at least one member shall live or work wholly or mainly in each of England, Scotland, Wales and Northern Ireland; and
- (b) the majority of members shall have such qualifications and experience in relation to the provision, funding or assessment of professional education and training as the Council considers will be of value to the Committee in the performance of its functions.

(3) The Council shall determine the duration of the term of office of members of the Committee on their appointment.

(4) No person may be a member of the Committee for more than an aggregate of 8 years during any period of 20 years but, for the purpose of the computing that aggregate, any service as a member of the committee prior to 1st July 2007 shall be discounted.

(5) The quorum of the Committee shall be half of the total number of members of the Committee, plus one.

Chair of the Education and Training Committee

4.—(1) The Council shall appoint a member of the Committee as the chair of the Committee.

(2) The term of office of the chair of the Committee shall be determined on appointment but it shall not exceed that person’s term of office as a member of the Committee.

- (3) The member serving as chair of the Committee shall cease to be chair—
- (a) if the member resigns as chair, which the member may do at any time by notice in writing to the Council;
 - (b) on ceasing to be a member of the Committee;
 - (c) if the member's membership of the Committee is suspended by the Council;
or
 - (d) if a majority of the Council votes to terminate the member's appointment as chair.

(4) If, for any reason, the chair is absent from a meeting of the Committee, the members who are present at that meeting shall nominate one of their number to serve as chair at that meeting.

(5) If, for any reason—

- (a) the Committee is on notice that the chair is likely—
 - (i) to be absent for more than one meeting of the committee, or
 - (ii) to be unavailable to perform the duties of a chair for more than a month; or
- (b) the office of chair is vacant,

the Committee may nominate a member ("deputy chair") to serve as chair during the absence or unavailability of the chair or the vacancy.

(6) A member serving as deputy chair shall cease to be deputy chair—

- (a) in the case of—
 - (i) the absence or unavailability of the chair, once the chair notifies the Committee that they are able to resume their duties, or
 - (ii) the office of chair being vacant, once the vacancy is filled;
- (b) if the member ceases to be a member;
- (c) if the member resigns as deputy chair, which the member may do at any time by a notice in writing to the Council;
- (d) if the member's membership of the Committee is suspended by the Council;
or
- (e) if the Committee votes (by a majority at a quorate meeting) to terminate the member's appointment as deputy chair.

PART 3

Disqualification, termination and suspension of members

Disqualification from appointment

5. A person is disqualified from appointment as a member if that person—
- (a) has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction;
 - (b) has at any time been convicted of an offence in the United Kingdom, and—
 - (i) the final outcome of the proceedings was a sentence of imprisonment or detention, and
 - (ii) the conviction is not a spent conviction;
 - (c) has at any time been removed—
 - (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—
 - (aa) for which the person was responsible or to which the person was privy, or
 - (bb) which the person by their conduct contributed to or facilitated, or
 - (ii) under—
 - (aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities), or
 - (bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session),from being concerned with the management or control of any body;
 - (d) has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;
 - (e) at any time has been adjudged bankrupt or sequestration of the person's estate has been awarded, and—
 - (i) the person has not been discharged, or
 - (ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 or Schedule 2A of the Insolvency (Northern Ireland) Order 1989 (which relate to bankruptcy restriction orders and undertakings);
 - (f) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;

- (g) is subject to—
- (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986,
 - (ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1989 (company directors disqualification),
 - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002, or
 - (iv) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of a county court administration order);
- (h) has been included by—
- (i) the Independent Barring Board in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007), or
 - (ii) the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007);
- (i) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—
- (i) the person's erasure from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body,
 - (ii) the person's suspension from a register held by the licensing body, and that suspension has not been terminated, or
 - (iii) a decision that had the effect of only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;
- (j) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by the Council, in the course of which or where the final outcome was that—
- (i) the person was removed from or struck off the register (for a reason connected to the person's fitness to practise),
 - (ii) the person's registration in the register was suspended (including by an interim suspension order) and that suspension has not been terminated,
 - (iii) the person's registration in the register was made conditional upon their compliance with any requirement (including an interim conditions of practice order) and that requirement has not been lifted, or
 - (iv) the person's registration in the register was annotated by virtue of a caution order and that order is still in force;
- (k) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured, the final outcome of which was the removal of the person's entry in the register;
- (l) is or has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by—

- (i) any licensing body, or
- (ii) the Council,

and the Council is satisfied that the person's membership of the committee would be liable to undermine public confidence in the regulation of registrants;
or

- (m) has at any time been convicted of an offence elsewhere than in the United Kingdom and the Council is satisfied that the person's membership of the committee would be liable to undermine public confidence in the regulation of registrants.

Termination of committee membership

6.—(1) A member shall be removed from office by the Council, if—

- (a) the member resigns, which a member may do at any time by a notice in writing to the Council;
- (b) in the case of a member who is —
 - (i) a registrant, that member's registration lapses, or
 - (ii) a lay member, that member no longer satisfies the criteria for being a lay member;
- (c) the member becomes a person of the type mentioned in rule 5(a), (b) or (e) to (h) whether or not they thereafter cease to be such a person;
- (d) the member becomes a person of the type mentioned in rule 5(c) or (d);
- (e) in the case of a registrant, the member becomes the subject of any investigation or proceedings concerning the member's fitness to practise by the Council, in the course of which or as a result of which—
 - (i) the member is struck off the register,
 - (ii) the member's registration in the register is suspended,
 - (iii) the member's registration in the register is made conditional upon the member's compliance with any requirement, or
 - (iv) the person's registration in the register is annotated by virtue of a caution order, and the proceedings relating to that particular sanction have reached their final outcome;
- (f) in the case of a registrant, the member becomes subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the removal of the person's entry in the register;
- (g) the Council is satisfied that the member's level of attendance at meetings of the Committee falls below a minimum level of attendance acceptable to the Council, having regard to—
 - (i) any recommended minimum levels of attendance that the Council has set in its standing orders, and
 - (ii) whether or not there were reasonable causes for the member's absences;

- (h) the Council is satisfied the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the Council has included in its standing orders;
- (i) the Council is satisfied that the member is no longer able to perform their duties as a member of the Committee because of adverse physical or mental health;
- (j) the Council is satisfied that the member's continued membership of the committee would be liable to undermine public confidence in the regulation of registrants.

(2) A member who becomes, or may become, a person to whom paragraph (1)(b) to (f) applies must notify the Council in writing of that fact as soon as the person becomes aware of it.

(3) Any member or employee of the Council may notify the Council if they are of the view that the Council may need to exercise its functions under paragraph (1).

Suspension of committee membership

7.—(1) The Council may suspend a member from office by a notice in writing served on the member—

- (a) if the Council has reasonable grounds for suspecting that the member has become a person to whom rule 6(1)(b)(ii) to (d) applies, for the purposes of determining whether or not the member has become such a person;
- (b) while the Council is considering whether or not it is satisfied as to the matters set out in rule 6(1)(g) to (j);
- (c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—
 - (i) any licensing body, or
 - (ii) the Council,

and the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Committee while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

- (d) if the member is the subject of any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Committee while the investigation or proceedings concerning the member's entry in the register is or are ongoing;
- (e) if the member is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or in any other part of the world relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—

- (i) either—
 - (aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment or detention, and
- (ii) the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Committee while the investigation or proceedings is or are ongoing.

(2) The Council shall suspend a member from office by notice in writing served on the member if the member is the subject of an order under article 31 of the Order (interim orders by a Practice Committee).

(3) The notice in writing under paragraph (1) or (2) shall set out the reasons for the suspension and the duration of the period of suspension, which shall (in the first instance) not be for more than 6 months.

(4) The Council—

- (a) may at any time review a suspension of a member by it; and
- (b) shall review any suspension of a member by it after 3 months from the start of the period of suspension, if requested to do so by the suspended member.

(5) Following a review, the Council may—

- (a) terminate the suspension; or
- (b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.

(6) The Council shall notify the suspended member in writing of the outcome of any review and that notice in writing shall include the reasons for any decision taken.

Sealed with the common seal of the Health Professions Council on [DATE]



Anna van der Gaag
President

Marc Seale
Registrar