

Consultation on amendments to the HCPC rules – deadline 8 September 2020

Please complete this page as it will help us to analyse the responses to our consultation.

Any information you provide will only be used for the purposes of the consultation and will not be shared with other parties.

If you give us your email address, we will email you to let you know the outcomes of the consultation.

1. What is your name?

David Hewlett

2. What is your email address?

david.hewlett@the-ncha.com

3. In which country are you based?

☒ England

☒ Northern Ireland

☒ Scotland

☒ Wales

☐ Other (please specify)

[Click or tap here to enter text.](#)

4. What is the name of your organisation?

National Community Hearing Association

5. Please tick the category below that best describes your organisation.

☒ Professional body

☐ Union

☐ Regulator

☐ Service user/carer representative

Other (please specify)

[Click or tap here to enter text.](#)

Our consultation proposals

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

Why do we want to change our Rules?

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 background of uncertainty.

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.

What changes do we want to make?

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 apply during an emergency only, as notified to the HCPC by the Secretary of State.

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

6. Do you agree that it is appropriate for the HCPC to serve notices electronically?

☒ Yes

☐ No

☐ Don't know

Comments

Yes - this is the modern means of communication and should be more convenient for HCPC registrants as well as saving money in terms of HCPC fees. This therefore has our support provided, in fairness to registrants, the HCPC

- requests, monitors and records acknowledgement of receipt notices
- monitors and records 'bounce backs' or other signs of non-delivery
- tries to resend by email at least a second time after a reasonable delay e.g. to allow an overfull inbox to empty
- if email fails a second time or more, reverts to using registered post with reasonable timescales to allow registrants to respond.

7. Do you agree that it is appropriate for the HCPC to send documents electronically?

☒ Yes

☐ No

☐ Don't know

Comments

Yes subject to the same provisos as in our response to Question 6 and that the documents are password protected or otherwise encrypted.

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

☒ Yes

☐ No

☐ Don't know

Comments

Yes - provided the registrant can request a face-to-face hearing on reasonable grounds.

It would be unfair to force a remote hearing on a registrant who would prefer to have their hearing in person. There are various reasons why a registrant may wish to have their hearing heard in person, none of which would be an attempt unduly to delay the hearing. Such reasons will include the seriousness and complexity of the case or a registrant's wanting to give the best account of themselves when giving evidence. They may well prefer a hearing in person so that their presentation can be observed properly throughout, as is currently their right. Some cases will also turn on the Committee's assessment of the registrant throughout the hearing and this assessment might be significantly hindered by a remote hearing. A live video-feed of the registrant could for example be a very inadequate substitute for this.

In such cases, priority must be given to the registrant's views and interests, especially as their registration and livelihoods may be at risk and substantive hearings do not carry the same degree of urgency as interim orders etc.

It would be very helpful therefore for the HCPC to consult further on and publish examples of reasonable grounds for requests for an in person hearing being granted.

9. 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?

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

☒ Yes

☐ No

☐ Don't know

Other (please specify)

Some registrants e.g. people for whom IT may be disconcerting or registrants with disabilities, e.g. sensory impairments, other communication, or mental health issues, may be disadvantaged by remote proceedings. These should be accepted grounds for requests in person hearings being granted as suggested in our response to Question 8.

We would welcome your feedback on our consultation process.

10. Have you found our online survey tool helpful in responding to this consultation?

☒ Yes

☐ No

11. How can we improve the feedback process including the online survey tool?

This survey tool was very easy to use