

2010 No. 000

HEALTH CARE AND ASSOCIATED PROFESSIONS

PHARMACY

**The General Pharmaceutical Council (Statutory Committees and
their Advisers Rules) Order of Council 2010**

<i>Made</i> - - - -	2010
<i>Laid before Parliament</i>	2010
<i>Laid before the Scottish Parliament</i>	2010
<i>Coming into force</i> - -	2010

At Council Chamber, Whitehall, the day of 2010

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

The General Pharmaceutical Council has made the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010, which are set out in the Schedule to this Order, in exercise of the powers conferred by articles 18(2), 63(4), 64(8) and 66(1) of, and paragraph 5 of Schedule 1 to, the Pharmacy Order 2010(a).

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has, in relation to rules under Parts 4 and 7 of that Order, consulted such persons or organisations as it considered appropriate including persons and organisations listed in paragraphs (a) to (h) of article 66(3) of that Order.

By virtue of article 66(4) of that Order, such Rules cannot come into force until approved by order of the Privy Council.

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

This Order may be cited as the General Pharmaceutical Council (Statutory Committees and their Advisers Rules) Order of Council 2010 and comes into force on [] 2010.

SCHEDULE

The General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010

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The General Pharmaceutical Council makes these Rules in exercise of the powers conferred by articles 18(2), 63(4), 64(8) and 66(1) of, and paragraph 5 of Schedule 1 to, the Pharmacy Order 2010.

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has, in relation to rules under Parts 4 and 7 of that Order, consulted such persons or organisations as it considered appropriate including persons and organisations listed in paragraphs (a) to (h) of article 66(3) of that Order.

PART 1

General

Citation and commencement

1. These Rules may be cited as the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010 and come into force on [] 2010.

Interpretation

2. In these Rules—

“Appointments Committee” means the committee established by the Council pursuant to its powers in article 4(7) of the Order for the purpose of exercising the functions conferred on it by these Rules and other functions delegated to it by the Council;

“the Order” means the Pharmacy Order 2010(a);

“statutory committees” means the Investigating Committee, the Fitness to Practise Committee and the Appeals Committee which are the Committees of the Council listed in article 4(6) of the Order;

“the CHRE” means the Council for Healthcare Regulatory Excellence(b);

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

“lay member” means a member of a statutory committee who is not, and has never been, entered in the register of any regulatory body and does not hold qualifications which would entitle them to apply for registration under the Order;

“licensing body” means any body anywhere in the world which licenses or regulates any profession;

(a) S.I. 2010/[].

(b) The Council for Healthcare Regulatory Excellence is established under Part 2 of the National Health Service Reform and Health Care Professions Act 2002 (c. 17). The Council’s name was changed by section 113 of the Health and Social Care Act 2008 from the Council for the Regulation of Health Care Professionals to the Council for Healthcare Regulatory Excellence.

“legally qualified” means, in relation to a person, that that person—

- (a) has a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990^(a) (qualification for judicial and certain other appointments)); or
- (b) is an advocate in Scotland, or a solicitor with rights of audience to appear in the Court of Session or in the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980^(b) (rights of audience in the Court of Session etc.);

“registrant member” means a member of a statutory committee who is a registered pharmacist or a registered pharmacy technician;

“spent conviction” means—

- (a) in relation to a court in Great Britain, a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974^(c);
- (b) in relation to a court in Northern Ireland, a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978^(d).

PART 2

Composition of Statutory Committees

Composition of the statutory committees

3.—(1) The Investigating Committee is to consist of—

- (a) a lay member who is the chair;
- (b) two lay members who are deputy chairs;
- (c) two other lay members; and
- (d) five registrant members.

(2) The Fitness to Practise Committee is to consist of—

- (a) a lay member who is the chair;
- (b) five lay members who are deputy chairs;
- (c) ten other lay members; and
- (d) sixteen registrant members.

(3) The Appeals Committee is to consist of—

- (a) a lay member who is the chair;
- (b) two lay members who are deputy chairs;
- (c) two other lay members; and
- (d) five registrant members.

(4) The chairs and deputy chairs referred to in paragraphs (2)(a) and (b) and (3)(a) and (b) may be legally qualified.

(5) In the absence of the chair of a statutory committee, one of the deputy chairs of that committee may perform the functions of the chair.

(a) 1990 c.41.

(b) 1980 c.46. Section 25A was inserted by section 24 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), and amended by paragraph 31 of Schedule 4 to the Criminal Procedure and Consequential Provisions (Scotland) Act 1995 (c.40), by S.S.I. 1999/1042 and S.S.I. 2001/121.

(c) 1974 c.53.

(d) S.I. 1978/1908 (N.I. 27).

PART 3

Appointment and Removal of Statutory Committee Members

Appointments Committee

4. The Appointments Committee is to exercise the following functions in accordance with these Rules—

- (a) selecting and appointing appropriate persons to serve as chairs, deputy chairs and members of the statutory committees;
- (b) where appropriate, suspending or removing from office members, including chairs and deputy chairs, of the statutory committees; and
- (c) overseeing procedures for the training, development, performance review and appraisal of members, including chairs and deputy chairs, of the statutory committees.

Eligibility of members of the Council for appointment to statutory committees

5.—(1) Members of the Council may not be appointed to any of the statutory committees.

(2) Former members of the Council may be appointed to one of the statutory committees, provided that they have not held office as a member of the Council for a period of four years prior to the date of application for membership of the relevant statutory committee.

Eligibility of other persons for appointment to statutory committees

6.—(1) An employee of the Council may not be appointed to any of the statutory committees.

(2) A person who is a member of one of the statutory committees may not be appointed to any of the other statutory committees.

(3) A person may not be appointed to a statutory committee if that person—

- (a) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) conducted by any licensing body, other than the Council, the final outcome of which was—
 - (i) the person's suspension from a register held by that licensing body, and that suspension has not been terminated,
 - (ii) the person's erasure from a register held by that licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by that licensing body, or
 - (iii) a decision that had the effect of only allowing the person to practise that person's profession subject to conditions, and those conditions have not been terminated;
- (b) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) by the Council, the final outcome of which was that—
 - (i) the person's entry in the Register, or part of the Register, was suspended (including by an interim suspension order), and the order imposing that suspension has not been revoked,
 - (ii) the person's entry in the Register, or part of the Register, was removed, or
 - (iii) the person's entry in the Register, or part of the Register, was made subject to an order imposing conditions with which the person must comply (including an order for interim conditional entry), and that order has not been revoked;
- (c) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the Register, or part of the Register, was fraudulently procured—

- (i) in the course of which the person's entry in the Register, or part of the Register, was suspended, and that suspension has not been terminated, or
 - (ii) the final outcome of which was the removal of the person's entry from the Register, or part of the Register;
- (d) has at any time been subject to any investigation or proceedings concerning the person's professional conduct (including fitness to practise) by—
- (i) the Council, or
 - (ii) any other licensing body,

and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;

- (e) has at any time been convicted of an offence—
- (i) in the United Kingdom where the final outcome of the proceedings was a sentence of imprisonment or detention, and the conviction is not spent,
 - (ii) in the United Kingdom where the final outcome of the proceedings was not a sentence of imprisonment or detention, the conviction is not spent, and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians, or
 - (iii) outside the United Kingdom and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (f) has received a formal caution for a criminal offence in the United Kingdom and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (g) has at any time been included in—
- (i) any barred list within the meaning of the Safeguarding Vulnerable Groups Act 2006(a),
 - (ii) any barred list within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(b), or
 - (iii) the children's list or the adults' list maintained under the Protection of Vulnerable Groups (Scotland) Act 2007(c),

unless that person was removed from the list either on the grounds that it was not appropriate for that person to have been included in it or as the result of a successful appeal;

- (h) has at any time 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(d) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989(e) or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(f),

(a) 2006 c.47.

(b) S.I. 2007/1351 (N.I. 11).

(c) 2007 asp 14.

(d) 1986 c.45. Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

(e) S.I. 1989/2405 (N.I.19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).

(f) 1985 c.66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).

and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;

- (i) is a person to whom a moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986 (debt relief orders) applies, or is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act^(a) (debt relief restrictions order and undertaking), and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (j) is subject to—
 - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986^(b),
 - (ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1989^(c),
 - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002^(d), or
 - (iv) an order made under section 429(2) of the Insolvency Act 1986^(e) (disabilities on revocation of a county court administration order);
- (k) has at any time been removed 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—
 - (i) for which that person was responsible or to which that person was privy, or
 - (ii) which was contributed to, or facilitated by, that person's conduct; or
- (l) has at any time been removed from being concerned with the management or control of any body in any case where removal was by virtue of—
 - (i) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990^(f) (powers of Court of Session to deal with management of charities), or
 - (ii) section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005^(g) (powers of Court of Session).

Required competencies for members of statutory committees

7.—(1) The Appointments Committee is to advise the Council on the minimum competencies it considers are required for appointment as a chair, deputy chair or member of a statutory committee.

(2) The Council is to determine the minimum competencies required for appointment as a chair, deputy chair or member of a statutory committee.

(3) In giving advice as provided for in paragraph (1), the Appointments Committee is to have regard to best practice on competencies required for membership of quasi-judicial committees, as disseminated by the Judicial Studies Board or the CHRE (or any successor bodies).

(4) No person may be appointed as a chair, deputy chair or member of a statutory committee unless that person possesses, or has demonstrated the ability to acquire within a reasonable period of time, the minimum competencies determined by the Council.

(a) 1986 c.45. Part VIIA was inserted by section 108(1) of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) ("the 2007 Act"); Schedule 4ZB was inserted by section 108(2) of, and Schedule 19 to, the 2007 Act.

(b) 1986 c.46.

(c) S.I. 1989/2404 (N.I. 18).

(d) S.I. 2002/3150 (N.I. 4); the relevant amending instrument is S.I. 2005/1454 (N.I. 9).

(e) Section 429(2) was amended by paragraph 15 of Schedule 23 to the Enterprise Act 2002.

(f) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(g) 2005 asp 10.

Standards and training for statutory committee members

8.—(1) A member (B) of a statutory committee must—

- (a) attend all meetings and hearings at which B's presence is required unless there is a good reason for B being unable to do so;
- (b) prepare for any meeting or hearing by reading any papers issued to the members of the statutory committee beforehand;
- (c) if B is unable to attend a meeting or hearing at which B's presence is required, take all reasonable steps to give advance warning of B's absence to the secretary of the relevant statutory committee; and
- (d) comply with the code for statutory committee members approved and published by the Council.

(2) Each member of a statutory committee must undertake periodic training provided or arranged by the Council (which may be training provided by another body), for the purpose of assisting the member to carry out their role as a member of the relevant statutory committee.

(3) Members of statutory committees (including chairs and deputy chairs) must be appraised periodically in accordance with arrangements determined by the Appointments Committee.

(4) The appraisal referred to in paragraph (3) must include consideration of the member's participation in training and attendance at meetings of the relevant statutory committee.

Terms of office for statutory committee members

9.—(1) The term of office of a member of a statutory committee (including a chair and a deputy chair) is to be four years.

(2) No member of a statutory committee (including a chair and a deputy chair) is to hold office as a member of that statutory committee for more than an aggregate period of eight years in any twenty year period.

Resignation of statutory committee members

10. A member of a statutory committee may resign from that committee at any time by notifying the Appointments Committee in writing.

Reserve list

11.—(1) The Appointments Committee must maintain a reserve list of appropriate persons to serve as members of each of the statutory committees (which is to include both prospective lay members and prospective registrant members).

(2) Persons may only be retained on a reserve list for a period of 3 years, after which time their suitability for continued inclusion in that list is to be reconsidered by the Appointments Committee.

(3) Persons on the reserve list may be appointed as the chair, a deputy chair or a member of a statutory committee without further interview by the Appointments Committee, in the event that a vacancy arises on a statutory committee.

(4) Persons on the reserve list may be invited to attend training provided or arranged by the Council (which may be training provided by another body) to maintain their suitability for continued inclusion on the reserve list.

(5) In the event that a member of a statutory committee (including a deputy chair but excluding a chair) is unable to sit to consider a case for any reason, persons on the reserve list for that statutory committee may be co-opted on to that committee, if its chair decides that it is appropriate to do so, to serve as a member of that statutory committee (including as a deputy chair) for that particular case.

Suspension and removal of statutory committee members and persons on the reserve list

12.—(1) The Appointments Committee must remove from a statutory committee any member—

- (a) who resigns from membership of a statutory committee in accordance with these Rules;
- (b) whose term of office has expired;
- (c) who, in the case of a registrant member, has ceased to be entered in the Register;
- (d) who, in the opinion of the Appointments Committee,—
 - (i) has ceased to be an appropriate person to be a member of a statutory committee (for example, by reason of misconduct or a criminal conviction),
 - (ii) has seriously or persistently failed to meet the standards of performance, conduct, attendance or participation in training required of a member of a statutory committee in the ordinary course of a member’s duties,
 - (iii) is unable to perform the duties of a member because of ill health,
 - (iv) has improperly disclosed confidential information obtained by the member in the course of the member’s membership of a statutory committee,
 - (v) has brought the Council into disrepute,
 - (vi) has failed to comply with the code for statutory committee members approved and published on the Council’s website by the Council, or
 - (vii) should no longer continue to be a member of a statutory committee in the public interest.

(2) The Appointments Committee must remove from the reserve list any person—

- (a) who requests removal from the reserve list;
- (b) who, in the case of a potential registrant member, has ceased to be entered in the Register;
- (c) who, in the opinion of the Appointments Committee,—
 - (i) has ceased to be an appropriate person to be on the reserve list (for example, by reason of misconduct or criminal conviction),
 - (ii) would be unable to perform the duties of a member of a statutory committee because of ill-health,
 - (iii) has brought the Council into disrepute, or
 - (iv) should no longer remain on the reserve list in the public interest.

(3) The Appointments Committee may suspend a member of a statutory committee while investigations are being undertaken into that member’s suitability to remain as a member of that statutory committee.

(4) The Appointments Committee must afford any member of a statutory committee, or any person on the reserve list, who is under investigation the opportunity to make written and oral representations before reaching a decision on whether to remove that member from the statutory committee or that person from the reserve list.

(5) The procedure for the suspension or removal of a member of a statutory committee is to be determined by the Appointments Committee, set out in writing and given to every member of a statutory committee.

(6) The procedure for the removal of a person from the reserve list is to be determined by the Appointments Committee, set out in writing and given to every person on the reserve list.

Casual vacancies

13. Where a vacancy occurs on a statutory committee as a result of the resignation, removal or death of a member of that statutory committee, the Appointments Committee must—

- (a) appoint a replacement member from the reserve list; or

- (b) where no suitable replacement member is available from the reserve list, appoint a replacement in accordance with these Rules.

Power to co-opt members of statutory committees

14.—(1) Subject to paragraphs (2) and (3), the chair of a statutory committee may (in addition to the circumstances provided for in rule 11(5)), after consulting with the legal adviser to that committee, co-opt appropriate persons to act as members of that statutory committee where it is necessary or desirable to do so in order for that statutory committee to be able to dispose of a particular case.

(2) No person may be co-opted as a member of a statutory committee unless that person possesses, or has demonstrated the ability to acquire within a reasonable period of time, the relevant competencies determined by the Council.

(3) The following persons may not be co-opted as a member of a statutory committee—

- (a) a member of the Council;
- (b) a member of another statutory committee;
- (c) a member of the Appointments Committee; and
- (d) an employee of the Council.

PART 4

Provisions Relating to Meeting and Hearings

Secretaries of statutory committees

15.—(1) Each statutory committee is to be assisted by a secretary.

(2) No person may act as secretary to a statutory committee if that person is a member of the Council.

(3) No person acting as secretary to the Investigating Committee may act as secretary to the Fitness to Practise Committee.

(4) The secretary to a statutory committee is to be responsible for the administrative arrangements relating to the proceedings of that committee.

(5) The secretary to a statutory committee must, in consultation with the chair of the relevant statutory committee, select the legal, clinical and specialist advisers to advise the committee, as required in any particular case.

(6) The secretary to a statutory committee must keep a record, or ensure a record is kept, of all decisions made by the statutory committee and of the reasons for them.

(7) The secretary to a statutory committee may not participate in the decision making of the statutory committee (and is not entitled to vote).

The composition of statutory committees at particular meetings or hearings

16.—(1) Subject to paragraph (2), the quorum for a meeting (other than a case management meeting) or a hearing of a statutory committee is three members which must include—

- (a) the chair or a deputy chair;
- (b) a lay member; and
- (c) a registrant member.

(2) Subject to paragraphs (4) to (7), the chair of the Fitness to Practise Committee must, having consulted the secretary of the Committee, and with regard to—

- (a) matters to be considered by the Committee; and

(b) availability, experience and expertise of Committee members, determine the particular size, composition and quorum of the Committee required for each hearing and any related meetings.

(3) Subject to rule 19(4), case management meetings of the statutory committees are to be conducted by the chair of the statutory committee which is holding the case management meeting.

(4) Where the chair of the Fitness to Practise Committee determines that only specified members of the Committee are required for a particular hearing and any related meetings, the chair must ensure that—

- (a) the chair or a deputy chair of the Committee is one of the specified members;
- (b) the quorum is not less than three; and
- (c) the number of registrant members who are members of that formation of the Committee does not exceed the number of lay members by more than one.

(5) Subject to paragraph (6), the chair of the Fitness to Practise Committee must ensure that a member of the Committee who has sat in a formation of the Committee that has made an interim suspension order or an order for interim conditional entry in a particular case must not sit in subsequent proceedings in that case.

(6) Paragraph (5) does not apply where the subsequent proceedings relate solely to measures under article 56 of the Order.

(7) For the purposes of paragraph (5), where an interim suspension order or an order for interim conditional entry is made in the course of the proceedings to determine a case substantively, the rest of the proceedings to determine the case substantively are not “subsequent proceedings” even if the case is adjourned (for whatever reason).

(8) At any meeting or hearing of a statutory committee, the number of registrant members considering a case must not exceed the number of lay members by more than one.

Provisions against bias

17.—(1) No member of a statutory committee (or a formation of a statutory committee) may sit as a member considering a particular case, at any stage of the proceedings relating to that case, if that member has an actual, or potential, conflict of interest in relation to that case.

(2) The Registrar must establish, maintain and publish a register of the private interests of all members, including chairs and deputy chairs, of the statutory committees.

(3) Each member of the statutory committees must notify the Registrar immediately of any private interest that the member has not previously notified to the Registrar but which may need to be recorded in the register maintained under paragraph (2).

Voting

18.—(1) Decisions of a statutory committee must be taken by a simple majority of the members, with the chair not having a casting vote.

(2) If a member of a statutory committee abstains from a vote at a meeting or hearing of a statutory committee, the member’s abstention must be treated as a vote against the motion that has been put to the vote.

PART 5

Advisers and their Advice

Functions of legal advisers

19.—(1) A legal adviser—

- (a) must be present at all meetings of the Investigating Committee at which a decision is to be taken as to whether or not to—
 - (i) refer a case to the Fitness to Practise Committee, or
 - (ii) notify the Registrar that the Council should consider exercising any of its powers to bring criminal proceedings;
- (b) may be present at any other hearing before, or meeting of, a statutory committee, at the request of the chair or secretary of that statutory committee; and
- (c) may be present at any other meeting of, or hearing before, a committee of the Council which is not a statutory committee, at the request of the Registrar.

(2) The function of the legal adviser who is present at a meeting or hearing referred to in paragraph (1)(a) or (b) is to ensure that proceedings before the statutory committee are conducted fairly.

(3) The legal adviser who is present at a meeting or hearing referred to in paragraph (1) must—

- (a) advise the committee on questions of law that are referred to the legal adviser by members of the committee;
- (b) intervene to advise the committee on an issue of law where it appears to the legal adviser that, without the legal adviser's intervention, there is a possibility of an error of law being made;
- (c) inform the committee immediately of any irregularity in the conduct of proceedings before it; and
- (d) at the request of the chair, advise the committee on the structure, format and presentation of the reasons for a decision of that committee.

(4) If the chair of—

- (a) the Fitness to Practise Committee; or
- (b) the Appeals Committee,

is not legally qualified, a legal adviser may conduct a case management meeting of that Committee at the request of the chair of that Committee.

(5) At the request of the chair, the legal adviser who is present at a meeting or hearing of a committee referred to in paragraph (1) may be present during the private deliberations of a committee, but must not participate in the decision making of the committee (and is not entitled to vote).

Functions of clinical advisers

20.—(1) A clinical adviser—

- (a) must be present at any meeting of the Investigating Committee at which a decision is to be taken as to whether or not to refer a case to the Fitness to Practise Committee where the health of the person who is the subject of the case is, or is likely to be, considered;
- (b) may be present at any other meeting of the Investigating Committee where health related issues are to be, or are likely to be, considered;
- (c) must be present at any meeting of, or hearing before, the Fitness to Practise Committee where health related issues are to be, or are likely to be, considered;
- (d) may be present at any meeting of, or hearing before, the Appeals Committee at which health related issues are to be, or are likely to be, considered; and
- (e) may be present at any meeting of, or hearing before, a committee of the Council which is not a statutory committee at which health related issues are to be, or are likely to be, considered by that committee.

(2) The function of the clinical adviser who is present at a meeting or hearing referred to in paragraph (1) is to—

- (a) advise the committee on any issues within the clinical adviser's areas of medical expertise that may be referred to the clinical adviser by a member of that committee; and
 - (b) intervene to advise the committee on an issue where it appears to the clinical adviser that, without the clinical adviser's intervention, there is a possibility of an error being made.
- (3) A clinical adviser who is present at a meeting or hearing referred to in paragraph (1)(c) to (e) must not be present during the private deliberations of the committee.
- (4) A clinical adviser must not participate in the decision making of any committee (and is not entitled to vote).

Functions of specialist advisers

21.—(1) A specialist adviser—

- (a) may be present at any meeting of the Investigating Committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by the Committee;
- (b) may be present at any meeting of, or hearing before, the Fitness to Practise Committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by the Committee;
- (c) may be present at any meeting of, or hearing before, the Appeals Committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by the Committee; and
- (d) may be present at any meeting of, or hearing before, a committee of the Council which is not a statutory committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by that committee.

(2) The function of a specialist adviser at a meeting or hearing referred to in paragraph (1) is to advise the committee on issues within the specialist adviser's areas of expertise that may be referred to the specialist adviser by a member of that committee.

(3) A specialist adviser who is present at a meeting or hearing referred to in paragraph (1)(b) to (d) must not be present during the private deliberations of the committee.

(4) A specialist adviser must not participate in the decision making of any committee (and is not entitled to vote).

Requirement to give or repeat advice in public

22.—(1) Subject to paragraphs (2) and (3), any advice tendered by a legal, clinical or specialist adviser at a meeting or hearing must be tendered in the presence of every party, or person representing a party, in attendance at the meeting or hearing.

(2) The requirement in paragraph (1) does not apply to meetings of the Investigating Committee.

(3) Where a statutory committee, or another committee of the Council which is not a statutory committee, has begun to deliberate on its decision and needs to obtain advice in the course of its deliberations, a legal adviser may tender advice to the committee notwithstanding the absence of the parties or any person representing a party.

(4) Where advice is tendered in the absence of the parties or their representatives in accordance with paragraph (3)—

- (a) the legal adviser must repeat the advice tendered to the committee before the parties, or any person representing a party, in attendance at the hearing; and
- (b) the parties or their representatives in attendance at the hearing must be provided with a reasonable opportunity to comment on the advice given by the legal adviser, before the committee makes its decision on the issue under consideration.

Requirement to keep records of advice and interventions

23.—(1) The secretary to a statutory committee must keep a record of any advice tendered to that committee by the legal, clinical or specialist adviser to that committee.

(2) The chair of a statutory committee must keep a record of any interventions made by the legal adviser during the private deliberations of that committee.

(3) A record of any advice tendered by the legal, clinical or specialist adviser must be sent to the parties to the proceedings (that is, the Council and the appellant or person concerned, as the case may be) or their representatives, as appropriate, as soon as practicable after it has been tendered.

Refusal by a statutory committee to accept advice

24. Where any advice tendered by the legal, clinical or specialist adviser to a statutory committee is not accepted by that committee—

- (a) the chair of the committee must announce the reasons for not accepting the advice tendered; and
- (b) the secretary to the committee must—
 - (i) keep a record of the advice tendered, and the reasons why the committee refused to accept that advice, and
 - (ii) send a copy of the record of the advice tendered and the reasons why the committee refused to accept that advice, to the parties to the proceedings (that is, the Council and the appellant or person concerned, as the case may be) or their representatives, as appropriate.

Questioning of witnesses

25. A legal, clinical or specialist adviser advising a committee in accordance with these Rules may, with the permission of the chair of that committee, question any witnesses appearing before the committee.

Given under the official seal of the General Pharmaceutical Council this day of 2010

President

Secretary

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves Rules of the General Pharmaceutical Council (“the Council”) that set out various matters relating to the constitution and composition of the three statutory committees of the Council (the Investigating Committee, the Fitness to Practise Committee and the Appeals Committee), and to the functions of advisers to the statutory committees and other committees of the Council.

Part 1 deals with preliminary matters, including commencement and interpretation and Part 2 sets out the composition of the statutory committees.

Part 3 deals with matters relating to the appointment and removal of statutory committee members, and sets out a number of categories of person who will not be eligible for appointment as a statutory committee member. It provides that an Appointments Committee set up by the Council under its powers in article 4(7) of the Pharmacy Order 2010 is to be responsible for selecting and appointing, suspending and removing from office, and overseeing training,

development and appraisal for, chairs, deputy chairs and other members of statutory committees. Provision is made in respect of statutory committee members about their required competencies; the standards and attendance at meetings, hearings and training expected of them; their term of office; the procedure for resignation from office; and the circumstances in which the Appointments Committee may suspend or remove them from office. Provision is also made about how vacancies on a statutory committee will be filled (including provision requiring the Appointments Committee to maintain a reserve list of statutory committee members) and providing a power for the chair of a statutory committee to co-opt members.

Part 4 contains provisions relating to meetings and hearings of the statutory committees, including a requirement for each statutory committee to have a secretary. Provision is made about the quorum of the statutory committees, and there is a requirement that at meetings or hearings of the statutory committees, the professional members should not be in a majority of more than one. There are also special arrangements relating to the composition of the Fitness to Practise Committee in certain circumstances. Additionally, there are provisions against bias and setting out that voting will be by simple majority.

Part 5 deals with the functions of legal, clinical and other specialist advisers to both statutory committees and other committees of the Council. There are requirements relating to the manner in which advice is to be tendered and recorded, and to the announcing and recording of decisions not to accept advice from professional advisers. Professional advisers are also given the power, with the permission of the chair of the relevant committee, to question witnesses.