

**THE GENERAL DENTAL COUNCIL
(SPECIALIST LIST)**

APPEALS REGULATIONS 2009

The General Dental Council make the following regulations in exercise of their powers conferred under section 26(3) and (4) and 52(1A) and (1B) of the Dentists Act 1984.

1 Citation, commencement and interpretation

- (1) These regulations may be cited as The General Dental Council (Specialist List) Appeals Regulations 2009 and shall come into force on 11 June 2009.
- (2) These regulations are supplemental to The General Dental Council (Specialist List) Regulations 2009, hereinafter called "the Principal Regulations".
- (3) In these regulations, unless the context otherwise requires:

"appeal" means an appeal against a decision of the General Dental Council brought by –

- (a) a person specified in article 14(1)(a), (b), (ba), (bb), (bc) or (c) of the European Qualifications Regulations;
or
- (b) a person specified in regulation 2 of these regulations who does not fall within subparagraph (a);

"appeal panel" means an appeal panel as constituted under paragraph 3 of the Schedule to these regulations;

"appellant" means a person making or wishing to make an appeal;

"chair" means the chair of an appeal panel;

"Director" means the Director of Appeals;

"hearing" means either a written appeal or an oral hearing;

"party" means –

- (a) the appellant; or
- (b) the Council;

"proceedings" means proceedings in an appeal to which these regulations refer; and

other expressions in these regulations defined in the Principal Regulations have the meanings there assigned to them.

2 Appeals

- (1) A registered dentist
 - (a) to whom the Council refuses to award a Certificate of Completion of Specialist Training; or
 - (b) who has sought to satisfy the Council that they are entitled in accordance with the Principal Regulations to use a title for a specialty but in respect of whom the Council are not so satisfied;may appeal against the Council's decision to an appeal panel convened by the Council.
- (2) The procedure governing selection of the members of appeal panels and the conduct of appeals will be as approved by the Council and the procedure will be as set out in the Schedule to these regulations.
- (3) The procedure mentioned in paragraph (2) shall comply with the provisions of regulation 14 of the European Qualifications Regulations.

3 Exercise of power conferred on chair

- (1) Unless otherwise provided, where by the Schedule to these regulations any power is conferred on the chair of an appeal panel, then
 - (a) if the power is to be exercised at the hearing of an appeal, it shall be exercised by the chair of the panel hearing the appeal;
 - (b) otherwise it shall be exercised by a person who is eligible to be nominated to act as the chair of an appeal panel under paragraph 3 of the Schedule;
 - (c) any such power may be exercised at any time prior to the commencement of the hearing by the Director of Appeals.

4 Service of documents

Where, by any provision of these regulations:

- (a) any notice or other document is required to be given to any office, that notice or document shall be treated as having been given on the day that it is received in that office; and
- (b) any notice or other document is required to be given to any person, that notice or document shall, if sent by post to that person's registered address, be treated as having been given two days after it was posted if sent to an address in the

United Kingdom, four days after it was posted if sent to an address within a relevant European State and seven days after it was posted if sent to an address elsewhere. Service of documents may also be effected in person.

5 Revocation

The General Dental Council (Distinctive Branches of Dentistry) Appeals Regulations 1998 and the General Dental Council (Distinctive Branches of Dentistry) Appeals (Amendment) Regulations 2004 are hereby revoked.

Given under the Official Seal of the General Dental Council on 15th June 2009.



A handwritten signature in black ink, appearing to read 'Hew Byrne Mathewson', written in a cursive style.

Hew Byrne Mathewson
President

A handwritten signature in black ink, appearing to read 'Duncan Hugh Rudkin', written in a cursive style.

Duncan Hugh Rudkin
Registrar

SCHEDULE
GENERAL DENTAL COUNCIL PROCEDURE GOVERNING APPEALS

1 Director of Appeals

- (1) The Council shall appoint a Director of Appeals on such terms as it shall determine.
- (2) A person is qualified to be appointed Director of Appeals if they have at least 10 years general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990.
- (3) The Director of Appeals shall hold and vacate office in accordance with the terms of the appointment made by the Council.
- (4) The functions of the Director of Appeals shall include:
 - (a) maintenance of a list of chairs of appeal panels;
 - (b) identification of the chairs and other members of appeal panels from the list of persons appointed by the Council;
 - (c) serving as a chair of appeal panels;
 - (d) arranging meetings and training of chairs and other members of appeal panels as the Director considers appropriate;
 - (e) arranging for appeal panels to be convened at such times as are necessary for the prompt and expeditious determination of appeals;
 - (f) determining applications for extension of time pursuant to paragraph 5(3) and applications to set aside determinations of appeals pursuant to paragraph 19;
 - (g) settling any question or difference referred to the Director pursuant to regulation 3;
 - (h) striving to maintain the impartiality of the appeal system governed by these regulations; and
 - (i) dealing with all other matters which are conducive to the proper performance of the appeal procedure.
- (5) The Council may appoint a Deputy Director of Appeals in conformity with sub-paragraphs (1) to (3) above (substituting 'Deputy Director of Appeals' for 'Director of Appeals' therein) to act in the place of the Director of Appeals in their absence and to fulfil such part (or the whole) of the functions of the Director of Appeals as the Director or the Council may appoint.

2 Remuneration

The Council may pay such remuneration, pension, allowances and travelling and other expenses to the Director of Appeals, Deputy Director of Appeals, chairs and other members of appeal panels and assessors as it may determine.

3 Constitution of appeal panels

(1) Every appeal panel shall consist of a chair and two other members, nominated by the Director of Appeals.

(2) The Director of Appeals may nominate as chair either the Director of Appeals or a person drawn from the list of chairs maintained by the Director.

(3) No person shall be nominated chair of an appeal panel unless the person has a 10 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990.

(4) The members of appeal panels other than the chair shall be registered dentists who are Fellows of UK medical or surgical Royal Colleges nominated by the Director of Appeals after such consultations as shall appear to the Director to be appropriate.

(5) A person shall not act as chair or member of an appeal panel if that person:

(a) has had any previous contact with the appellant personally or professionally; or

(b) has taken any part in the previous consideration of matters relevant to the appeal unless the appellant has had further specialist dental training since an appeal was decided against them and is appealing against a refusal to award a Certificate of Completion of Specialist Training;

(c) is a Fellow of a medical or surgical Royal College or Faculty who holds the prescribed distinctive title in the same speciality in which the appellant has received specialist dental training.

(6) At any time before the commencement of the hearing of the appeal, the Director of Appeals may cancel any or all of the nominations made pursuant to this regulation, and make such alternative nomination or nominations as in the exercise of their discretion the Director deems to be expedient.

(7) Where the chair or any member of an appeal panel is not present at a hearing, the appeal panel shall not proceed to hear the appeal but shall instead adjourn the hearing.

- (8) If the chair or any member of an appeal panel for any reason relinquishes their membership of the appeal panel after the hearing has begun, the appeal shall proceed by way of a complete re-hearing before a fully constituted appeal panel.

4 Nature of appeals

The function of the appeal panel shall be to hear an appeal brought by an appellant under regulation 2 and determine:

- (a) in the case of an appeal brought by an appellant referred to in regulation 2(1)(a) whether or not the appellant should be awarded a Certificate of Completion of Specialist Training; or
- (b) in the case of an appeal brought by an appellant referred to in regulation 2(1)(b) whether or not the Council should be satisfied that the appellant is entitled to use one of the titles prescribed in regulation 2 of the Principal Regulations; or
- (c) where the Council has informed an appellant as to the period or type of further training that is required for the appellant to be entitled to use one of the titles prescribed in regulation 2 of the Principal Regulations, whether that training is appropriate.

5 Manner of bringing appeals and time limits

- (1) Subject to sub-paragraph (2), any appeal shall be brought in writing by giving notice of appeal in writing in the form specified in sub-paragraph (5) below to the office of the Council within three months beginning with the date that notice of the decision of the Council against which the appeal is brought was given to the appellant.
- (2) Where, after the Council has made a decision against which an appeal may be brought under these regulations, at the request of the appellant a Faculty of a Surgical Royal College has considered an appeal against, or has reviewed, a recommendation which it had previously made to the Council on behalf of the Joint Committee for Specialist Training in Dentistry and the appeal or review is based on evidence identical or similar to that which was before the Council when it (the Council) reached its decision, the period of three months referred to in sub-paragraph (1) shall begin on the date that notice of the result of such appeal or review was given to the appellant.
- (3) The time specified for the bringing of an appeal may be extended for special reasons, even though the time so specified may have already expired, and any application for an extension of time shall be made to and determined by the Director of Appeals who shall extend the time where the Director is satisfied that in all the circumstances of the case it is reasonable to do so. Where the Director has extended the time for the bringing of an appeal one

further extension of the time may be permitted where the Director deems it reasonable in the circumstances of the case.

(4) An application for an extension of time which has been refused may not be renewed.

(5) The notice of appeal shall contain:

- (a) the name and registered address of the appellant;
- (b) the address (if different) for service of notices and other documents on the appellant; and
- (c) the appellant's election pursuant to paragraph 6(1).

(6) The notice of appeal shall be accompanied by:

- (a) a copy of the decision of the Council against which the appeal is brought, with a note of the reasons for that decision;
- (b) a copy of the result of any appeal or review such as is referred to in sub-paragraph (2) of this regulation;
- (c) a paginated bundle containing a copy of the documents on which the appellant intends to rely at the hearing;
- (d) if the appellant's election is for the appeal to proceed by oral hearing, information on any oral evidence the appellant intends to adduce at the hearing; and
- (e) the appropriate appeal fee referred to in paragraph 7.

(7) As soon as practicable and in any event not later than 30 days after receipt of a valid notice of appeal, the Council shall give to the Director of Appeals the following, at the same time supplying to the appellant copies of the material referred to in sub-paragraphs (b) and (c) below:

- (a) the notice of appeal and the documents referred to in paragraph 6 (a)-(d) of this regulation;
- (b) the papers considered by the Council in making the decision against which the appeal is brought; and
- (c) any other information or documents in the possession of or procured by the Council which it considers may be of assistance to the appeal panel hearing the appeal.

(8) On receipt of the material referred to in sub-paragraph (7) of this paragraph, the Director of Appeals shall proceed as soon as practicable to constitute an appeal panel to hear the appeal.

6 Election of type of hearing

(1) The appellant shall elect whether the appeal that the appellant brings should be determined by the appeal panels:

- (a) as a written appeal considering submissions in writing only; or
- (b) after an oral hearing.

Such election shall take place not more than 30 days after the date on which the appellant has been given written information and documents provided by the Council in response to the appeal.

(2) Notwithstanding the election made by the appellant, the appeal panel and the Council shall have power to elect an oral hearing.

(3) The appellant may change the election referred to in subparagraph (1) at any stage of the proceedings before the appeal panel has commenced its consideration of the appeal, by notice to the chair of the appeal panel accompanied by the appropriate additional appeal fee on a change of election, if any.

7 Appeal fees

(1) No notice of appeal shall be entertained unless it is accompanied by the appropriate appeal fee payable to the Council as a contribution towards defraying the costs of the appeal, such fee to be refunded at the discretion of the chair of the appeal panel in the event of the appeal proving successful.

(2) The scale of appeal fees shall be determined from time to time by the Council.

(3) The different level of costs of providing a written appeal and an oral hearing shall be reflected in the different levels of appeal fees determined.

8 Convening notice

(1) As soon as practicable after the Director of Appeals has been able to constitute an appeal panel, the Director shall issue a convening notice specifying:

- (a) the date, time and, subject to paragraph 12(2), place of the hearing of the appeal (which shall be not earlier than 28 days after the convening notice); and
- (b) the requirement for the appellant to state, in writing, within 14 days of receipt of the notice, the names of any persons to whom the appellant would object as

chair or as members of the appeal panel, stating the grounds of any objection.

(2) Copies of the convening notice shall be given to the appellant, the Council and the nominated chair and members of the appeal panel.

(3) If the appellant has elected an oral hearing, the appellant's attention shall be drawn in the convening notice to:

(a) the appellant's right to represent themselves or be represented at the hearing;

(b) the appellant's right (without prejudice to the right to appear and take part in the proceedings) to deliver a written statement, in advance of or at the hearing, if the appellant thinks fit.

(4) Upon receipt of any such objection as described in sub-paragraph (1)(b) of this paragraph, the Director of Appeals shall, if satisfied that it is properly made, exercise the power conferred on the Director by paragraph 3(6) to nominate a substitute chair or member or members of the appeal panel. Upon receipt of notification of such nomination the appellant shall have the same right of objection as is conferred by sub-paragraph (1)(b) of this paragraph.

(5) Notice of nomination of a substitute chair or member or members of an appeal panel shall be given by means of a substitute convening notice, containing information as specified in paragraph 1(a), revised as the Director of Appeals deems appropriate.

9 Directions

(1) As regards matters preliminary or incidental to an appeal, the Director of Appeals may at any time before the hearing of the appeal give such directions in writing to the parties to the proceedings as the Director thinks fit either on specific matters or generally for the just and expeditious conduct of the proceedings.

(2) Before the hearing the chair may give such directions to the parties to the proceedings as the chair considers proper for the clarification of the issues before the appeal panel and generally for the just and expeditious conduct of the proceedings.

(3) The directions referred in sub-paragraph (2) of this paragraph may particularly concern the supply by the parties to the proceedings of such further written information and documents and copies thereof relating to the appeal as the chair thinks fit. A copy of any directions given to either party to the proceedings shall be sent to the other party.

(4) The information and documents and copies thereof supplied to the appeal panel by either party to the proceedings in compliance with the chair's directions shall also be supplied to the other party to the proceedings at the same time as it is supplied to the appeal panel.

(5) The chair may direct that either of the parties to the proceedings indicate which of any information supplied by the other party is not accepted or whether either party wishes to challenge the authenticity of any document supplied by the other party. The Chair shall determine which if any such information and/or which such document shall be admissible in evidence before the panel.

(6) The chair may at any stage in the proceedings give further directions or take any other steps which the chair considers necessary for the proper conduct of the proceedings.

10 Assessors

(1) The chair of an appeal panel may direct that in dealing with the matters before the appeal panel, the appeal panel shall have the assistance of one or more assessors, who appear to the chair to have knowledge or experience which would be relevant in assisting the appeal panel to determine the appeal.

(2) The assessor or assessors shall not form part of the appeal panel and it shall be for the appeal panel alone to determine the issues in the appeal.

11 Written appeals

(1) The panel appointed shall meet for the consideration of written appeals. Such appeals shall be held in private and without the presence of either the appellant or any representative of the Council.

(2) The appeal panel may request written clarification from either party to the proceedings or from any other authority, corporation, body or individual in respect of any matter which in its opinion is relevant to the proceedings.

(3) The parties to the proceedings shall be entitled to receive copies of all relevant written evidence received by the appeal panel which the appeal panel considers would, or would be likely to, influence its decision and either party to the proceedings may submit comments thereon in writing to the appeal panel provided that copies of any such comments shall be supplied to the other party to the proceedings.

12 Oral hearings

(1) This regulation applies to any oral hearing of an appeal.

- (2) Subject to the discretion of the Director of Appeals to appoint otherwise in any particular case, oral hearings shall take place in London.
- (3) All oral hearings shall be heard in private except where the appellant requests a public hearing, subject to the power of the chair to direct that the public be excluded either from the whole or from any part of the hearing if it appears to the chair that for any reason the circumstances and nature of the appeal makes a public hearing undesirable.
- (4) There shall be no requirement to give publicity to a public hearing and the absence of any member of the public from a public hearing shall not invalidate the proceedings at that hearing.
- (5) Whether or not the hearing is otherwise in private, any person whom the appeal panel has requested to attend may be present, and any other person may be present with the leave of the chair and the consent of the appellant but shall take no part in the proceedings except to give evidence under sub-paragraph (6).
- (6) At oral hearings the chair may:
- (a) admit any evidence, whether oral or written, whether direct or hearsay, and whether or not the same would be admissible in a court of law; and
 - (b) subject to the provisions of these regulations, give such directions with regard to the conduct of and procedure at the hearing as they consider just.
- (7) The parties to the proceedings may address the panel, may give evidence, may call witnesses and may put questions directly to any person called as a witness.
- (8) The appellant may be accompanied at the hearing and may be represented by another person whether legally qualified or not and, for the purposes of the proceedings at any such hearing, any such representative shall have all the rights to which the appellant is entitled. The Council may be legally represented at the hearing.
- (9) The appeal panel may request written or oral clarification from either party to the proceedings or from any other authority, corporation, body or individual in respect of any matter which in its opinion is relevant to the proceedings and may question either party to the proceedings or any witness called by either party to the proceedings or by the appeal panel.
- (10) If the appellant shall fail to appear at the hearing, the chair may, having regard to all circumstances including any explanation offered for the absence, direct that the appeal panel proceed to hear and determine the appeal in the appellant's absence, or give such directions with a view to the conduct of the proceedings as the chair may consider proper.

13 Postponement and adjournment

- (1) Where either party to the proceedings wishes to apply for a hearing to be postponed that party shall do so in writing to the chair stating the reason for the application and the chair shall have discretion to grant or refuse the application, whichever the chair thinks fit.
- (2) The chair may upon the application of either party to the proceedings or by agreement of the panel adjourn the hearing upon such terms as the chair considers proper.

14 Withdrawal of appeals

An appellant may withdraw their appeal at any time before it is determined by giving written notice of intention to withdraw to the chair. An appeal, once withdrawn, may not be reopened.

15 Striking-out of proceedings for want of prosecution

- (1) The chair shall have discretion, subject to sub-paragraph (2), of their own motion to strike out any appeal for want of prosecution, including the failure of an appellant to comply with the directions of the chair under paragraph 9.
- (2) The chair shall not make an order under sub-paragraph (1) of this paragraph before a notice has been given to the appellant giving the appellant 28 days to show cause why such an order should not be made.
- (3) The chair may, on written application given by the appellant to the office of the Council within three months beginning with the date of the order made under sub-paragraph (1), give leave to reinstate any appeal which has been struck out in accordance with this regulation, and, on giving leave, the chair may make such directions as to the future conduct of the proceedings as the chair considers proper.

16 Record of oral hearings

- (1) A transcript record shall be taken of the proceedings at an oral hearing.
- (2) A copy of the transcript record of the proceedings (or any other record of the proceedings made in the discretion of the chair) shall be made available to the appellant if the appellant requests one within three months of the date of the hearing and reimburses the cost of supplying the same.

17 Determination of appeals

- (1) Appeal panels shall reach their determinations by majority vote of the members.
- (2) The determination in each case shall:
 - (a) be recorded in writing by the chair and signed by the chair and each member of the appeal panel; and
 - (b) include a statement of the reasons for the determination, including findings on all questions of fact material to the determination.
- (3) As soon as practicable after an appeal has been determined by an appeal panel, a copy of the record of the determination made in accordance with this regulation shall be given to the parties to the proceedings.
- (4) If the determination of the appeal panel is in favour of the appellant, the Council shall act on such determination within 15 working days.

18 Correction of accidental errors in determination

- (1) On written application given by either party to the proceedings to the office of the Council within three months beginning with the date of the determination, accidental errors in the determination may be corrected by the chair of the appeal panel which gave the determination.
- (2) A correction made to a determination shall be deemed to be part of the determination and written notice of it shall be given as soon as practicable to the parties to the proceedings.

19 Setting aside of determination on certain grounds

- (1) On written application by either party to the proceedings given to the office of the Council within three months beginning with the date of the determination, a determination may be set aside by the Director of Appeals, in a case where it appears to the Director just to do so on the grounds that:
 - (a) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, the appellant or the appellant's representative or was not received at an appropriate time by the appeal panel which gave the determination;

(b) the appellant or the appellant's representative was not present at a hearing; or

(c) the interests of justice so require,

provided that the Director shall, in setting aside the determination, state whether or not there is to be a re-hearing of the appeal.

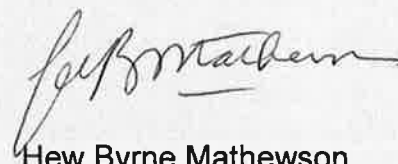
(2) Notice in writing of the decision reached on an application to set aside a determination shall be given to the parties to the proceedings as soon as practicable and the notice shall contain a statement giving the reasons for the decision.

(3) For the purposes of deciding an application to set aside a determination under this regulation there shall be disregarded the provisions of regulation 1(5).

20 Curing of irregularities

Any irregularity resulting from failure to comply with these regulations before the determination of an appeal shall not of itself render the proceedings void, but the chair may, and shall if they consider that either party to the proceedings may have been prejudiced, take such steps as the chair thinks fit before the determination of the appeal to cure the irregularity, whether by the amendment of any document, the giving of any notice, the taking of any step or otherwise.

Dated this 15th day of June 2009.



Hew Byrne Mathewson
President



Duncan Hugh Rudkin
Registrar