

AHCS

Registration

Appeal Rules

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Citation

1. These rules may be cited as the AHCS Registration Appeal Rules (2023).

Interpretation

In these rules:

'Academy' shall mean the Academy for Healthcare Science

'Applicant' shall mean an individual who has applied for registration on a register maintained by the Academy.

'Chair' shall mean the chair of the Appeal panel.

'Day(s)' means any day including weekends, bank holidays and any religious days.

'Lay Person' means a person who is not, and who has not within three years of appointment to any panel, been a registrant of the Academy; been registered with the Health and Care Professions Council; and does not hold qualifications which would entitle them to apply for such registration.

'Panel' shall mean the Appeal Panel established to consider an appeal.

'Register' shall mean a part of the Accredited Register maintained by the Academy.

'Registrant' means a person who is registered with the Academy.

'Registrar' shall mean a person appointed by the Academy to maintain its Register.

'Registration Rules' shall mean the AHCS Registration Rules.

Purpose

2. These rules set out how a Panel established by the Academy will consider appeals by an applicant for registration or Registrant:
 - a. against a decision by the Registrar to refuse to enter the Applicant's name in a Register maintained by the Academy;
 - b. against a decision by the Registrar to refuse to renew the registration of a Registrant;
 - c. concerning the failure of the Registrar to come to a decision in relation to a and b;

Notice of appeal

3. An appeal shall be made by an appellant giving notice in writing in accordance with rule 5 of these rules.

4. The appeal notice shall :
 - a. include:
 - i the name and contact details of the appellant;
 - ii the appellant's registration number (if applicable);
 - iii the date, nature and other relevant details of the decision against which the appeal is brought;
 - iv a concise statement of the grounds of the appeal; and
 - v the name and address of the appellant's representative (if any) and a statement as to whether the Academy should correspond with that representative concerning the appeal instead of with the appellant;
 - vi a statement that the notice is a notice of appeal; and
 - vii confirmation that the appeal is made by or on behalf the appellant.
5. The appellant shall attach to the notice of appeal a copy of any documents on which they propose to rely for the purposes of the appeal.
6. Upon receipt, the Registrar will review the appeal. Where the Registrar considers it to be an appropriate outcome the Registrar may, with the agreement of the appellant, resolve the appeal by making any decision that could have been made previously – for example, by directing that an application for registration be reassessed.
7. Where Rule 6 does not apply, the Academy will establish a panel to consider the Appeal

The nature of the appeal hearing

8. All appeal hearings shall be held in public in the presence of both parties unless any of the provisions of rule 38 below apply.
9. Unless the provisions of rule 13 below apply, appeal hearings shall not be by way of a rehearing; rather they will be a review of the papers and the previous decision made.
10. If it is satisfied that it is just and reasonable to do so, the Panel may permit the appellant to rely on grounds not stated in the notice of appeal.
11. Witnesses shall not be permitted to give live evidence to the Panel save with the leave of the Panel in accordance with rule 12.
12. If it is satisfied that it is just and reasonable to do so, the Panel may permit a party to present any evidence not previously relied upon (fresh evidence), if the party seeking to rely on the material can satisfy the Panel that:
 - a. the fresh evidence was not reasonably available at the time the decision being appealed against was made; and
 - b. the fresh evidence is relevant to an issue that is being considered by the Panel.
13. Where fresh evidence is relied on by the appellant the Academy may serve evidence in rebuttal.

Time for appeal

14. A notice of appeal must be received by the Academy within 28 days from the date of notice of decision under Rule 21 of the AHCS Registration Rules.

Acknowledgement and notice of hearing

15. Within 28 days of receiving a valid notice of appeal (that is, complies with rules 4 , 5 and 14) the Academy shall:
 - a. acknowledge its receipt
 - b. fix a date and time for the hearing of the appeal, which shall not be more than 90 days following the receipt of a valid notice of appeal;
 - c. send a notice of hearing to the appellant which shall inform them of:
 - i the right to attend the hearing;
 - ii the date, time, remote access details or venue for the hearing;
 - iii the nature of the appeal hearing, namely that it is by way of review, rather than re-hearing;
 - iv the right to give evidence in person and to call witnesses with the leave of the Panel and in accordance with the restrictions on evidence identified at rule 11;
 - v the right to make oral submissions to the Panel in person or to be represented by another person (such as a solicitor, barrister, professional body or trade union representative); and
 - vi that if they do not attend, the appeal may proceed in their absence.
16. Hearings and meetings under this procedure will normally take place remotely using video-conferencing technology.

Notice of attendance

17. Within 28 days of the notice of hearing referred to in rule 15(c) being sent, the appellant shall inform the Academy whether or not they intend to attend or be represented at the hearing and whether or not they intend to call any witnesses or submit other fresh evidence subject to the requirements of rule 13 and, if so, shall provide the names and addresses to the Board.
18. The respondent in any proceedings shall be the Academy, represented by the Registrar.
19. An appellant who does not intend to attend or be represented at a hearing may, no less than 7 days before the date of the hearing, send to the Academy additional written representations in support of their appeal.

Membership of an appeal panel

20. A panel shall comprise no fewer than three members and shall include:
 - a. a Registrant who is registered in the same part of the Register that the appellant is seeking admission to; and
 - b. at least one Lay Person; and
 - c. a Chair (who may be a Lay Person or a Registrant).
21. A person is not eligible to be appointed to, or to sit as a member of, a panel if that person:
 - a. has been involved in any other capacity in a case which is to be considered by the appeal panel;
 - b. is disqualified or suspended from membership of another panel.
22. Decisions by a panel shall be made by a majority vote of those present and, in the event of a tie, the Chair shall have an additional casting vote which shall be exercised in favour of the appellant.
23. Each panel shall be assisted by a clerk who shall be responsible for the administrative arrangements for the hearing.
24. The clerk shall not participate in the decision making of the Panel and shall not have a vote.

Representation

25. The Registrar may be represented in appeal proceedings by any person who shall be known as the respondent.
26. The appellant may be represented in any proceedings by any person, whether or not legally qualified, except a member, employee or agent of the Academy or any of its panels.
27. Where the appellant or the Registrar are represented at an appeal hearing, references in these rules to the appellant, Registrar or Academy may also be read as references to the representative of the appellant, Registrar or Academy.

Preliminary meetings

28. The Panel may hold a preliminary meeting in private with the parties, their representatives and any other person the Panel considers appropriate if such a meeting would, in the opinion of the Panel or the Chair, assist the Panel to perform its functions.

Powers to determine an appeal without a hearing

29. The Panel may determine an appeal without an oral hearing based on any documents provided under rules 5, 17 and 19 where:

- a. no reply is received from the appellant within the time specified in rule 17 and the Panel is satisfied that all reasonable steps have been taken to give notice under rule 15(c); or
 - b. the appellant replies under rule 17 to the effect that they do not wish to attend or be represented; or
 - c. the appellant consents to the appeal being determined without a hearing; and
 - d. the respondent consents to the appeal being determined without a hearing; and
 - e. the Panel considers it in the public interest to do so.
30. If the Panel decides under rule 29 to determine an appeal without a hearing, it shall consider any written representations provided by the appellant and the respondent.

Absence of the appellant

31. Where:
- a. the appellant has been notified of the hearing in accordance with rule 15;
 - b. the appellant does not attend and is not represented;
 - c. the respondent does not consent to the appeal being determined without a hearing in accordance with rule 29;

the Panel may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken to give notice of the hearing to the appellant and that it is fair and in the public interest to do so.

Postponement or adjournment of a hearing

32. Hearings may be postponed by the Academy either of its motion or at the request of a party to a hearing up to 14 days in advance of a hearing after receiving representations from both parties.
33. Where a hearing is postponed the Academy shall send the appellant notice of the date on which the Panel is to hold the postponed hearing.
34. Unless the appellant agrees otherwise, the date for a postponed hearing shall be at least 14 days after the date of the notice described in rule 33 above.
35. Hearings may be adjourned by the Panel Chair from time to time as they see fit either before or after the commencement of the hearing or at the request of a party.
36. Reasonable notice of the date of an adjourned hearing must be provided by the Academy to the parties.

Conduct of hearing

37. The hearing shall be conducted in public unless after hearing representations from both parties (where available) the Panel is satisfied that:
 - a. in the interests of justice; or
 - b. for the protection of the public; or
 - c. for the protection of the private life of the Registrant; or
 - d. for the protection of any person giving evidence, patient or service user, the whole or part of the hearing should proceed in private.
38. At the beginning of the hearing the Chair shall explain to the parties the order of proceedings which the Panel proposes to adopt.
39. The Panel shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings and the parties shall be heard in such order as the Panel shall determine.
40. Any persons that are called to give evidence (pursuant to rules 11 and 12) shall be examined by the party calling them, cross examined by the other party and re-examined by the party that called them. The Panel may ask questions after re-examination. The parties may then ask questions of the witness, arising from the Panel's questions. The party calling the witness shall be the final person to examine the witness in re-examination.

Evidence

41. Subject to the provision of rules 11 and 12 [no live evidence and admission of fresh evidence], the advice of the Legal Adviser, the requirements of a fair hearing and of relevance, the Panel may:
 - a. admit evidence whether or not it would be admissible in a UK court of law
 - b. exclude evidence, where doing so ensures fairness to the Registrant and/or the Academy.
42. The Panel may receive oral, documentary or other evidence of any fact or matter which appears to it to be relevant to its consideration of the case.
43. The findings of fact and certification of conviction of any UK criminal court or the findings of a judge in any UK civil court shall be conclusive proof of the conviction or finding and the underlying facts.
44. Any relevant determination and findings of fact by any regulator or an equivalent regulator outside the United Kingdom shall be conclusive proof of the determination and the underlying facts.

Powers of the Appeal Panel

45. The Panel shall have the power to:
 - a. allow the appeal, whether in full or part; or
 - b. refuse the appeal; or
 - c. remit to the Registrar for the reassessment of an application for registration with such directions as it may specify.

Notice of decision

46. Within 7 days of the hearing, the Academy shall notify the appellant in writing of the Panel's decision and the reasons for reaching that decision.
47. The decision of the Panel shall be final and there shall be no further right of appeal to the Panel.
48. Where the Panel upholds the decision of the Registrar to refuse to register the appellant, the appellant may not submit further applications for registration for two years from the date of the notice described in rule 46 above.