

**General
Chiropractic
Council**



**Protecting patients
Setting standards**

Disclosure Policy: Regulatory Committees and Appeal Tribunals

Contents

Background	1
General Principles in relation to the Public Nature of and/or Disclosure of Proceedings & Findings	2
Nature of Publication	2
Nature of Information to be Disclosed	3
General Policy	3
Disclosure of Findings After Publication	3
Schedule I	4
Disclosure concerning:	
● Notice of hearing (Appeal Tribunal)	4
● Notice of Decision (Appeal Tribunal)	4
● Notice of Hearing (Interim Suspension) (IC)	5
● Notice of Hearing (Interim Suspension – Section 10) (IC)	5
● Notice of Decision (Interim Suspension) (IC)	5
● Notice of Hearing (Interim Suspension) (PCC, HC)	6
● Notice of Formal Allegations (PCC)	6
● Notice of Hearing (PCC)	6
● Notice of Decision (PCC)	7
● Notice of Allegations (HC)	8
● Notice of Hearing (HC)	8
● Notice of Decision (HC)	8

Background

The processes for hearings before the General Chiropractic Council (“the GCC”) regulatory committees (the Investigating Committee, the Professional Conduct Committee and the Health Committee) and the hearing of appeals are governed by the following legislation:

- The Chiropractors Act 1994 (“the Act”)
- The General Chiropractic Council (Investigating Committee) Rules 2000 (“the IC Rules”)
- The General Chiropractic Council (Professional Conduct Committee) Rules 2000 (“the PCC Rules”)
- The General Chiropractic Council (Health Committee) Rules 2000 (“the HC Rules”)
- The General Chiropractic Council (Appeals Against Decisions of the Registrar) Rules 2000 (“the Appeals Rules”)

In addition, those processes are subject to other legislative requirements, such as:

- The Human Rights Act 1998 (“the HRA”)
- The International Covenant on Civil and Political Rights 1966 (“the ICCPR”)
- The Data Protection Act 1998 (“the DPA”)
- The Freedom of Information Act 2000 (from 2005) (“the FIA”)

The interpretation and implementation of such legislation must also be conducted in the light of relevant case law from higher courts.

In order to ensure that it meets its obligations regarding disclosure on information relating to proceedings before the regulatory committees and the appeal tribunals, whilst protecting the rights and freedoms of the parties to such proceedings, the GCC has prepared and is publishing this policy document on the publication of information relating to its function of administering justice.

General Principles in relation to the Public Nature of and/or Disclosure of Proceedings & Findings

The GCC is a public body with specific duties under statute and as such is expected to be open and transparent in its proceedings. Certain parts of the specific legislation under which the GCC's regulatory committees and appeal tribunals operate require that the proceedings are public, for example:

- **Rule 5(4) of the Appeals Rules:** "Subject to paragraphs (5) and (6), the meeting considering the appeal shall be open to the public."
- **Rule 9(1) of the PCC Rules:** "Subject to Rules 6(1) and 10(5) and to the following provisions of this Rule, the hearing shall take place in the presence of the parties and in public."

In addition, Article 6(1) of the HRA states that "In the determination of his civil rights and obligations..., everyone is entitled to a fair and public hearing... Judgement shall be pronounced publicly..." Article 14(1) of the ICCPR states that "...any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children." The European Court of Human Rights has interpreted the requirements of Article 14(1) of the ICCPR as going beyond the requirements of merely announcing any judgement in public to making the judgement available to the public .

Nature of Publication

At the heart of any discussion on publication of items related to proceedings and findings is the method of publication used. At present, the main method of publications used by the GCC for Notices of proceedings and findings is the internet, through posting on the GCC's web-site, as is now the practice of all the other health regulatory bodies. The use of the internet has distinct advantages over other methods of publication, as illustrated below:

1. **Posting of Notice at the GCC building (as done by many courts)**
 - The public would have to come to the GCC in London to find out what is happening, why and where.
2. **Publication in professional journals/newsletters**
 - Although the GCC newsletter is circulated to the profession and to chiropractic organisations, use of this method to publish relevant information inherently restricts the audience and thus would arguably fail the GCC's obligation to make public the intention to do justice and to make public findings.

- The same drawbacks would attach to the use of newsletters/journals published by professional associations.

3. Publication in local/national newspapers

- Advertising in local papers would not address the need to address a wider audience.
- Advertising in national newspapers would be prohibitively expensive.

4. Publication on the Internet

- Although not everyone has access to the internet, an increasing percentage of the population does. Indeed, more people have access to the internet in the UK than take a daily or weekly newspaper.
- Publication on the internet is fast, efficient and relatively inexpensive.
- Publication on the internet allows amendments to be made rapidly where necessary.

Nature of Information to be Disclosed

In addition to the specific information outlined in Schedule 1, the GCC would draw to the attention of parties to proceedings before the regulatory committees and the appeal tribunals (and their legal advisors) that any evidence adduced or matters referred to in a public hearing may be subject to subsequent disclosure.

General Policy

It should be noted that this is a general policy and exceptions will be considered.

Disclosure of Findings After Publication

Findings remain a matter of public record indefinitely. Any person may request details of any findings against a specific chiropractor even after the period where these findings are removed from the web-site.

As a matter of routine, when responding to requests for information from other regulatory bodies, the GCC will indicate any history of findings.

Schedule I

	Type of Information	When published	Rationale
1	Notice of Hearing (Appeal Tribunal)	14 days after service of the Notice of Hearing under Rule 4(2) of the Appeal Rules	<p>Hearings before the Appeal Tribunal are public hearings, although the appellant may elect that the hearing be held in private (Rule 5(5) of the Appeal Rules).</p> <p>When the Notice of Hearing is served under Rule 4(2) of the Appeal Rules, appellants are asked whether they wish to exercise their right under Rule 5(5). The GCC will publish the Notice of Hearing after the date by which the appellant was required to submit their grounds of appeal, if they have not indicated that they wish the hearing to be held in private.</p>
2	Notice of Decision (Appeal Tribunal)	When formal notice is served upon appellant	<p>Even where the Appeal Tribunal may meet in private, at the request of the appellant, the decision of the Tribunal must be given in public and made public under the HRA and the ICCPR. Rule 5(3) of the Appeal Rules requires that the Tribunal gives the appellant written notice of its decision (and the grounds therefore) in writing as soon as practicable after the hearing.</p> <p>The Notice of Decision will be published at the time that it is served upon the appellant. The Notice of Decision will remain on the web-site for the following periods:</p> <ol style="list-style-type: none"> 1. <u>In cases where the appeal is upheld</u> For 28 days from the date the Notice is served upon the appellant (the period in which any person dissatisfied with the decision of the Tribunal may appeal to the appropriate court) or until such time as any requirement of the Tribunal is met, whichever is longer. 2. <u>In cases where the appeal is refused</u> For 28 days from the date the Notice is served upon the appellant (the period in which any person dissatisfied with the decision of the Tribunal may appeal to the appropriate court) at which time the Notice will be removed but the details of the person refused will remain on the web-site (together with an indication that a copy of the Notice of Decision may be obtained from the GCC), so that the public are aware that the person is not permitted to describe themselves as a chiropractor of any sort (whether expressly or by implication). This would assist in protecting the public.

	Type of Information	When published	Rationale
3	Notice of Hearing (Interim Suspension) (IC)	At the time the hearing is set	<p>Proceedings of the Investigating Committee ("the IC") are normally confidential and neither complainant nor respondent appear before the Committee, as the proceedings are not by way of a 'hearing' as such. The exceptions to this are:</p> <ul style="list-style-type: none"> ● Where the IC is considering imposing an interim suspension order on the basis of the allegations being considered (Rule 6 of the IC Rules) ● Where the IC is considering imposing an interim suspension order in relation to the investigation of an allegation of registration through fraud or error (Section 10 of the Act and Rule 7 of the IC Rules). <p>By their very nature, Interim Suspension hearings fall within the scope of Article 6(1) of the HRA, as they are a determination of the respondent's civil rights, and therefore there is a requirement that the hearings be held in public. This is reinforced by the fact that suspension of registration is imposed where "it is necessary to do so in order to protect members of the public" (Sections 10(3) and 21(2) of the Act).</p> <p>Interim Suspension hearings are usually held at short notice. The IC Rules require the IC to give the respondent at least 10 days notice of a hearing (in contrast to the minimum of 28 days notice required in relation to a hearing before the PCC or the HC).</p> <p>Therefore, the Notice of Hearing will be published at the time notice is given to the respondent so that members of the public may make any arrangements necessary for them to attend should they wish to do so.</p>
4	Notice of Hearing (Interim Suspension – Section 10) (IC)		
5	Notice of Decision (Interim Suspension) (IC)	When the formal notice is served upon the respondent.	<p>Interim Suspension decisions by the IC fall with the scope of Article 6(1) of the HRA and Article 14(1) of the ICCPR. Therefore, the decision of the IC must be published.</p> <p>The Notice of Decision will be published at the time the written notice is served upon the respondent, and remain on the web-site for the periods specified below:</p> <ol style="list-style-type: none"> 1. <u>Interim Suspension (No Interim Order Imposed)</u> From the date the Notice is served upon the respondent until such time as the proceedings are concluded. 2. <u>Interim Suspension (Interim Order Imposed)</u> From the date the Notice is served upon the respondent until such time as the proceedings are concluded.

	Type of Information	When published	Rationale
6	Notice of Hearing (Interim Suspension) (PCC, HC)	At the time that the date for the hearing is set.	<p>By their very nature, Interim Suspension hearings fall within the scope of Article 6(1) of the HRA, as they are a determination of the respondent's civil rights, and therefore there is a requirement that the hearings be held in public. This is reinforced by the fact that suspension of registration is imposed where "it is necessary to do so in order to protect members of the public" (Section 24 of the Act).</p> <p>Interim Suspension hearings are usually held at short notice. The PCC and HC Rules and the Act give no indication as to the notice of an Interim Suspension hearing that is required to be given. However, as a matter of good practice the PCC and HC will follow the indication given in the IC Rules (at least 10 days).</p> <p>Therefore, the Notice of Hearing will be published at the time notice is given to the respondent so that members of the public may make any arrangements necessary for them to attend should they wish to do so.</p>
7	Notice of Formal Allegations (PCC)	28 days prior to the date of the hearing	<p>The GCC is required to cause justice to be done in public. Inherent in this obligation is the obligation to make public the intention to do justice. Therefore, it is logical to expect that the GCC would make public when a hearing is being held (the Notice of Hearing) and why the hearing is being held (the Notice of Formal Allegations). This would allow the public to ascertain whether or not the hearing is one which they would wish to attend.</p> <p>The reason for publishing 28 days before the hearing is that Council acknowledges that sufficient notice is necessary in order to make appropriate arrangements to attend a hearing. This is particularly relevant if those wishing to attend are chiropractors, as this is likely to mean that clinic schedules will need to be arranged. 28 days is also the minimum period of notice required to be given to the respondent.</p> <p>Notices of Formal Allegations will be published with a clear indication that they are allegations and that:</p> <ul style="list-style-type: none"> ● They have yet to be heard by the PCC ● It should not be assumed that the allegations are admitted or will be found proved. <p>The full Notice of Formal Allegations, as drafted by the IC, will be published as this will:</p> <ul style="list-style-type: none"> ● Allow those wishing to attend, or who may wish to make themselves aware of the outcome of <p style="text-align: right;"><i>Continued</i></p>
8	Notice of Hearing (PCC)		

	Type of Information	When published	Rationale
7	Notice of Formal Allegations (PCC)	28 days prior to the date of the hearing	<p>the proceedings, to be aware of the precise nature of the allegations</p> <ul style="list-style-type: none"> Remove any allegation of bias in the way that a précis of the allegations might be worded.
8	Notice of Hearing (PCC)		<p>It should be noted that the Formal Notice of Allegations will, in effect, be in the public domain prior to the hearing as, in addition to the requirements that the Formal Notice is provided to the complainant and the respondent, it is likely that the respondent will have given details of the formal allegations to his/her professional association and professional indemnity insurers, neither of whom are parties to the proceedings.</p>
9	Notice of Decision (PCC)	When formal notice is served upon the respondent.	<p>The PCC is required to give its judgements in public and to make the judgements public (Article 6(1) HRA and Article 14(1) ICCPR). The PCC is also required to give the respondent written notice of its decision (and the grounds therefore) as soon as practicable after the hearing.</p> <p>The Notice of Decision will be published at the time the written notice is served upon the respondent, and remain on the web-site for the periods specified below:</p> <p><u>Interim Suspension (No Interim Order Imposed)</u></p> <ol style="list-style-type: none"> From the date the Notice is served upon the respondent until such time as the proceedings are concluded. <p><u>Interim Suspension (Interim Order Imposed)</u></p> <ol style="list-style-type: none"> From the date the Notice is served upon the respondent until such time as the proceedings are concluded. <p><u>Allegations Not Found</u></p> <ol style="list-style-type: none"> For 28 days from the date the Notice is served upon the respondent (the period in which any person dissatisfied with the decision of the PCC may appeal to the appropriate court) or for up to six months if so requested by the respondent. <p><u>Allegations Found Proved: Admonished</u></p> <ol style="list-style-type: none"> For 28 days from the date the Notice is served upon the respondent (the period in which any person dissatisfied with the decision of the PCC may appeal to the appropriate court) and for one year after that period ends. <p><u>Allegations Found Proved: Conditions of Practice Order Imposed</u></p> <ol style="list-style-type: none"> From the date upon which the Notice is served <p style="text-align: right;"><i>Continued</i></p>

	Type of Information	When published	Rationale
9	Notice of Decision (PCC)	When formal notice is served upon the respondent.	<p>until the end of such time that the Conditions of Practice Order may have effect and for one year after that period ends.</p> <p>6. <u>Allegations Found Proved: Suspension of Registration</u> From the date upon which the Notice is served until such date as the period of suspension ends and for one year thereafter.</p> <p>7. <u>Allegations Found Proved: Removal from the Register</u> From the date upon which the Notice is served until such time as the respondent may be restored to the Register.</p>
10	Notice of Allegations (HC)	Not published.	<p>Hearings before the HC are, by default (Rule 9(2) of the HC Rules), private unless there is an overwhelming public interest, in which case the hearing or parts, thereof may be held in public (Rules 9(2) and 9(3) of the HC Rules).</p> <p>Therefore, it is appropriate that details of the allegations relating to the respondent's health are not published.</p>
11	Notice of Hearing (HC)	28 days before the date of the hearing.	<p>Although the hearing may be held in private, there is still an obligation to make public the intention to do justice. Therefore, it is appropriate for the Notice of Hearing to be published, so that the public may be aware that a hearing is happening.</p> <p>28 days is the minimum period of notice required to be given to the respondent. Where it has been determined that the hearing, or parts thereof, are to be heard in public, the same arguments with respect of notice as apply to hearings before the PCC apply in this respect.</p>
12	Notice of Decision (HC)	When the formal notice is served upon the respondent.	<p>The HC is required to give its judgement in public and to make the judgement public (Article 6(1) HRA and Article 14(1) ICCPR). The HC is also required to give the respondent written notice of its decision (and the grounds therefore) as soon as practicable after the hearing.</p> <p>The Notice of Decision will be published at the time the written notice is served upon the respondent, and remain on the web-site for the periods specified below:</p> <p><u>Allegations Not Found</u></p> <p>1. For 28 days from the date the Notice is served upon the respondent (the period in which any person dissatisfied with the decision of the PCC</p> <p style="text-align: right;"><i>Continued</i></p>

	Type of Information	When published	Rationale
12	Notice of Decision (HC)	When the formal notice is served upon the respondent.	<p>may appeal to the appropriate court) or for up to six months if so requested by the respondent.</p> <p>2. <u>Allegations Found Proved: Conditions of Practice Order Imposed</u> From the date upon which the Notice is served until the end of such time that the Conditions of Practice Order may have effect and for one year thereafter.</p> <p>3. <u>Allegations Found Proved: Suspension of Registration</u> From the date upon which the Notice is served until such date as the period of suspension ends and for one year thereafter.</p>

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September 2003

ISBN 1-903559-18-9