

GENERAL OPTICAL COUNCIL

Amendment to GOC Rules – Civil Standard of Proof

1. It is anticipated that the Health and Social Care Bill, which will introduce the legal requirement for the Fitness to Practise Committee to apply the civil standards in hearings, will receive Royal Assent in July 2008. The Department of Health will then prepare commencement orders to bring into force the legislation. These will state the precise date the civil standard of proof will have to be applied by the Fitness to Practise Committee. The Department has indicated that it intends to commence the legislation no earlier than late October 2008.

2. In March 2008, Council approved for consultation a document outlining a proposed change to Rule 50 of GOC's Fitness to Practise Rules:

The standard of proof applicable before the Fitness to Practise Committee for findings as to fact is the standard of proof required in civil proceedings.

At its meeting in May 2008, it was reported to Council that the Department had requested to see the consultation document before it was issued, and that there would have to be a separate consultation on the draft statutory instrument that introduced the rule change.

3. A draft statutory instrument has been sent to the Department, and a timetable has been proposed to the Department for consultation and introducing the rule. At the time of writing this paper, GOC is awaiting a response from the Department on the proposed timetable.

4. The enforcement date of the rule change will need to align with the commencement of the relevant provisions in the Health and Social Care Bill. As such, it is likely that Council will need to make the rule change prior to its next scheduled meeting of 20th November, 2008. It is therefore proposed that a teleconference meeting of sufficient members of Council to enable the meeting to be quorate is convened to make the rule change (15 Council members, 5 of which are Privy Council nominees). If the timetable proposed to the Department is accepted, Council will need to make the rule on or around 30th September 2008.

Council is asked to agree the mechanism for introducing the change to the GOC's Fitness to Practise Rules on the civil standard of proof.