

2003 No. 1578

**HEALTH CARE AND ASSOCIATED PROFESSIONS
HEALTH PROFESSIONS**

**Health Professions Order 2001 (Legal Assessors) Order of
Council 2003**

Made - - - - - *13th June 2003*

Laid before Parliament *17th June 2003*

Coming into force *9th July 2003*

At the Council Chamber, Whitehall, the 13th day of June 2003

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

Their Lordships, in exercise of the powers conferred on them by article 40 of the Health Professions Order 2001(a), and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Health Professions Order 2001 (Legal Assessors) Order 2003 and shall come into force on 9th July 2003.

(2) In this Order—

“the Order” means the Health Professions Order 2001;

“Committee”, except in the title of a Committee, means one of the Committees mentioned in article 2 of this Order.

2. At a hearing before—

- (a) the Investigating Committee in respect of an allegation under article 22(1)(b) of the Order or any matter which is treated as such an allegation in accordance with article 22(6) of the Order;
- (b) the Health Committee under Part V of the Order;
- (c) the Conduct and Competence Committee under Part V of the Order; or
- (d) the Council under article 37 of the Order,

any advice tendered by a legal assessor to the Council or a Committee shall, subject to article 3, be given in the presence of every party, or person representing a party, in attendance at the hearing.

3. Where the Council or a Committee—

- (a) has begun to deliberate on its decision; and
- (b) considers that it would be prejudicial to the discharge of its functions for the advice to be tendered in the presence of the parties or their representatives,

the advice may be given in the absence of the parties or their representatives.

(a) S.I. 2002/254.

4. Where advice is given in the absence of the parties or their representatives in accordance with article 3, the legal assessor shall—

- (a) as soon as practicable after completion of the deliberations inform each of the parties (or their representatives) in attendance at the hearing, of the advice he gave, together with any question which led to that advice; and
- (b) subsequently record those matters in writing and (unless that record forms part of a record made pursuant to article 5) give a copy to those parties or their representatives.

5. If on any occasion the Council or a Committee do not accept the advice tendered by a legal assessor at a hearing—

- (a) a record shall be made by the legal assessor of the advice given (together with any question which led to that advice), and of the decision not to accept it, together with the reasons for that decision; and
- (b) a copy of the record shall be given to every party, or person representing a party, in attendance at the hearing.

6. Copies of written advice, made for the purposes of article 4 or 5, shall be available, on application, to every party to the proceedings who does not attend, and is not represented at, the hearing before the Council or the Committee.

A.K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order relates to advice given by legal assessors, appointed under article 34 of the Health Professions Order 2001, to the Health Professions Council or a Committee of the Council on questions of law arising at a hearing before the Council or a Committee. It provides that, except in specified circumstances, such advice must be given in the presence of the parties or their representatives. Where it is not given in their presence they must be notified of the advice given. If the Council or a Committee does not accept the advice, the parties are to be informed.

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