

Council, 28 July 2020

Unconfirmed minutes of the Tribunal Advisory Committee Meeting 9 June 2019

Executive Summary

The Tribunal Advisory Committee (TAC) met on 9 June 2020. The draft minutes of this meeting are provided for information.

A summary of business considered is set out below.

Head of Tribunal Services report

This is a standing item. Discussion from this paper focused on the impact of COVID-19 on the running of the tribunal service. Panel Chair members provided their views of how virtual hearings had gone so far, these were largely positive. Members had suggestions for the Executive on guidance to support substantive virtual hearings.

Partner team operational report

This is a standing item. The Committee discussed the upcoming end of term for a cohort of Panel Chairs and asked that this risk be raised with the SMT. This was discussed at a subsequent SMT meeting and the risk was felt to be managed, and that seeking legislative change to the 8-year rule was not desirable. A longer-term recruitment plan is being developed.

Proposal for Refresh of Practice Notes

This paper presented the Executives' proposal for a new approach to the Practice Note format following extensive discussion with the TAC. The proposal was agreed and the new format will be put in place as PNs go through the review cycle.

HPCPC Committee review 2020

The Committee discussed the Senior Council Member led review of the HPCPC's committee governance structures and effectiveness. The Committee then met subsequently on 13 July to agree its submission to the review.

Tribunal Advisory Committee

Public minutes of the 12th meeting of the Tribunal Advisory Committee held on:-

Date: Tuesday 9 June 2019

Time: 1pm

Venue: Teleconference

Present: Graham Aitken
Catherine Boyd
Philip Geering
Sheila Hollingworth
Alan Kershaw
Marcia Saunders (Chair)

In attendance:

Claire Amor, Secretary to the Committee
Claire Baker, Tribunal Services Manager – Hearings
Zoe Maguire, Department Lead -Tribunal Services
Deborah Oluwole, Tribunal Services Manager – Scheduling
Uta Pollmann, Head of HR Operations and Partners

Public agenda

Item 1. Chair's welcome and introduction

- 1.1 The Chair welcomed Committee members and the Executive to the twelfth meeting of the Tribunal Advisory Committee.
- 1.2 The Chair thanked the Executive for their continued hard work during challenging circumstances resulting from the COVID-19 pandemic.
- 1.3 The Chair thanked member Phillip Geering for this contribution to the 8-year rule discussion paper which formed part of the Partner Team report.

Item 2. Apologies for absence

- 2.1 No apologies were received.

Item 3. Approval of agenda

- 3.1 The Committee approved the agenda.

Item 4. Declarations of members' interests

- 4.2 Graham Aitken, Catherine Boyd and Philip Geering have declared a standing interest as sitting panel chairs due to the nature of the Committee's remit. There were no other declarations of interest.

Item 5. Minutes of the Tribunal Advisory Committee meeting of 12 November 2019 (report ref: TAC 01/20)

- 5.1 The Committee agreed the minutes from its meeting held on 12 November 2019.

Item 6. Matters arising (report ref: TAC 02/20)

- 6.1 The Committee noted the matters arising from its meeting of 12 November 2019.
- 6.2 The Committee requested a comprehensive list of the feedback mechanisms in place at the HCPC relating to tribunal performance and how these inform panel member training. The Hearings Manager agreed to provide this at the September 2020 meeting.

Item 7. Head of Tribunal Services report (report ref: TAC 03/20)

7.1 The Committee received a report from the Department Lead - Tribunal Services.

7.2 The Committee noted the following points:-

- as a result of the departure of Social Workers in December 2019 there had been an associated reduction in hearing activity;
- there had been a higher rate of adjourned and part heard hearings between December - February which had since reduced as a result of the pandemic impact;
- in January there was a high number of cases that were not well found at final hearing, 5 of these were not well found at impairment stage. The reasons for this will be reviewed and fed into learning;
- the pandemic has had a significant impact on hearing activity, and as a result the ongoing post-ICP caseload will increase in the coming months. Hearing activity is being prioritised in a phased approach in order to manage risk and minimise delays in an appropriate manner;
- following successful testing, substantive review and interim order activity has been undertaken by Panels virtually using MS Teams;
- work towards implementing an electronic bundle solution as a result of the pandemic has moved at pace. A preferred supplier has now been identified and testing is underway;
- the Tribunals team have been working with business improvement colleagues who have developed a capacity and demand model that will assist with the monitoring of workflow across the FTP functions; and
- the HCPC has been engaging with other regulators to join a shared framework which would provide lay advocacy support to individuals at all stages of an FTP case.

7.3 The Committee welcomed the progress towards a lay advocacy framework. It was noted that the framework was intended for complainants and witnesses rather than registrants subject to FTP proceedings. Some regulators had helplines available to registrants and this is something the HCPC would explore in future.

7.4 The Committee was asked for their experiences and advice regarding virtual hearings. The Committee noted that managing virtual hearings requires strong chairing skills and confidence to control the risk of the proceedings becoming unfocused. The dynamic was different from in person hearings. A Panel Chair member of the Committee noted that a

recent HCPC virtual hearing had gone well thanks to the effective support provided by a hearings officer.

- 7.5 The Committee noted that there would be a structured review of what had worked well during the pandemic lockdown to ensure new ways of working were taken forward.
- 7.6 The Committee discussed the use of electronic hearing bundles and if there was a risk that panel members would be unwilling to move away from working with paper bundles. It was noted that electronic bundles were widely in use at other regulators and while there may be initial reluctance the benefits it would deliver outweighed this.
- 7.7 The Committee noted the PSA learning points had raised some cases where reasoning was not fully formed in the decision. It was noted that this aspect of drafting decisions already forms part of initial and refresher training given to panel members and the feedback provided by the PSA indicates that it should remain a point of focus in the training. The Committee agreed that legal assessors have a specific role in ensuring reasoning is well made and requested that this issue be highlighted to this group.

Item 8. Partner team operational report (report ref: TAC 04/20)

- 8.1 The Committee received a paper from the Head of HR Operations and Partners.
- 8.2 The Committee noted the following points:-
- the Partner Portal upgrade major project has been completed and the system has successfully upgraded. Phase 2 of the project has been delayed due to the pandemic as it requires external consultant input;
 - the pilot for the 360 degree feedback system was successful. Due to the new implementation and limitations of virtual hearings, the launch of the full system has been postponed;
 - the Partner Expense Policy was reviewed by the Remuneration Committee and the new policy went live on 1 April 2020, the main change related to restricting hotel costs within London;
 - the Partner fee review had been implemented. A 2% increase had been applied to all partner roles with the exception of legal assessors and CPD assessors. CPD assessor fees will be looked at separately while legal assessors were paid above the benchmark; and

- all Partner training had been postponed due to the pandemic restriction. The team were looking at alternative methods of providing training to Partners.

- 8.3 The Committee asked if there had been complaints resulting from the change to the expense policy relating to hotels. It was noted that due to the pandemic restrictions Partners were not currently booking hotels and so feedback had been limited. However, an escalation process was in place should the number of complaints rise. The Committee suggested that the Executive run a survey on Panel members future willingness to travel into London for hearings when restrictions end.
- 8.4 The Committee discussed succession planning for the Panel Chairs who would leave due the 8-year rule. It was noted that legal advice received was that the HCPC was bound by the 8-year rule without legislative change. Panel Chair recruitment would continue virtually including recruitment from existing experienced panel members.
- 8.5 The Committee considered this loss of experienced Panel Chairs posed a risk given the backlog of cases building due to pandemic restrictions preventing their progression. The Committee requested that their concern on the risk posed by the 8-year rule removing Panel Chairs at this time be communicated to the HCPC's Senior Management Team.

Item 9. Proposal for Refresh of Practice Notes (report ref: TAC 05/20)

- 9.1 The Committee received a paper from the Department Lead - Tribunal Services.
- 9.2 The Committee noted that at its last meeting it agreed to consider an option for the refresh of the current set of Practice Notes. The proposal presented set out the agreed format and purpose of the Practice Notes and proposed how to refresh the current notes taking into account the time and resource available.
- 9.3 The Committee noted that the proposed style of the Notes would be consistent with that of the Sanction Policy and would avoid legalistic terms to enhance accessibility.
- 9.4 It was noted a consolidated pack of the Notes would be produced, with ordering based on themes of issues Panels may encounter during a hearing for greater ease of reference.
- 9.5 The Committee agreed that the review of Practice Notes should continue according to the proposal set out in the paper.

Item 10. Committee review (report ref: TAC 06/20)

- 10.1 The Chair provided the committee with an overview of the committee governance review being undertaken by the Senior Council Member in collaboration with the Committee Chairs. A questionnaire had been issued for all committees to complete.
- 10.2 It was agreed that members would complete the survey and submit this to the Committee Secretary who would meet with the Chair of the Committee to combine and anonymise comments. The Committee would then meet on 13 July 2020 to agree its combined response based on the data collected.

Item 11. Any other business

- 11.1 There was no further business.

Item 12. Future meetings:

- 13 July 2020
- 15 September 2020
- 10 November 2020

Chair.....

Date.....