
Scheme of Delegation

Executive Summary

As part of the review of the Scheme of Delegation, the Audit Committee is asked to a view on possible changes prior to presenting a revised Scheme of Delegation.

The two areas that the Audit Committee are asked to provide a view on are:

1. Separating the role of Chief Executive and Registrar

It should be noted that the Scheme of Delegation currently implies that the Chief Executive and the Register will always be the same person. It proposed to change the Scheme of Delegation so that the Chief Executive and Register are two clearly separate roles. Does the Audit Committee have a view on redrafting the Scheme of Delegation to increase the clarity on the separation of roles?

2. Application of the Scheme of Delegation

The Scheme of Delegation delegates decisions but is silent to notification of major changes to the application without changing the scheme. For example, in clause 7.2 of the current scheme, employment procedures and processes are delegated to the Chief Executive. Substantial changes may be proposed to the application of this delegation.

At what stage, if any, does the Audit Committee need to be informed of significant changes to the application of the Scheme of Delegation?

Previous consideration	The underlying questions have been posed in the Accelerating Strategic Objectives paper presented to Council in September 2019.
Decision	The Audit Committee is asked to discuss and provide a view on the next steps.
Next steps	Production on an updated Scheme of Delegation for the next Audit Committee
Strategic priority	Strategic priority 3: Ensure the organisation is fit for the future and is agile in anticipating and adapting to changes in the external environment

Risk 5. Failure of leadership, governance or culture

Financial and
resource
implications

Nil

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Scheme of Delegation

1 Introduction

- 1.1 The Health and Care Professions Council (the **Council**) is responsible for setting the organisation's policy and strategy and the Executive is responsible for the operational implementation of that policy and strategy.
- 1.2 This scheme of delegation (the **Scheme**) is intended to facilitate the efficient and effective discharge of the Council's functions in a manner which reflects that division of responsibilities.
- 1.3 The Scheme sets out the decisions which the Council has:
 - 1.3.1 reserved to itself;
 - 1.3.2 delegated to its Education and Training Committee;
 - 1.3.3 delegated to the Chief Executive and Registrar (the Chief Executive), some of which may also be exercised by nominated Executive officers or by persons nominated by the Chief Executive;
 - 1.3.4 delegated to other nominated officers of the Executive.
- 1.4 Where a decision is delegated to a Head of Service or Director, that power may also be exercised by the relevant Executive Director.
- 1.5 The Scheme does not affect:
 - 1.5.1 decisions of an administrative nature, which form part of the Executive's responsibilities for the day to day administration of the HCPC's affairs under the direction of the Chief Executive; or
 - 1.5.2 any statutory function conferred upon the Registrar by or under the Order, the discharge or delegation of which is a matter for the Chief Executive (as Registrar).

2 Withdrawal of delegated power

- 2.1 The Scheme remains in force until it is amended or revoked by the Council.
- 2.2 The Scheme does not apply to any matter in respect of which the Council has resolved that delegated authority is not to be exercised.

3 Exercise of delegated power

- 3.1 Any power delegated under the Scheme must be exercised in a manner which is consistent with the Council's obligations under the Health and Social Work Professions Order 2001 (the **Order**) and the general law.

- 3.2 In particular, the decision maker must have regard to Article 3(4) of the Order, which provides that the over-arching objective of the Council in exercising its functions is the protection of the public.
- 3.3 The decision maker must also recognise that lawful exercise of a statutory power requires not only formal compliance with the conditions laid down for its performance, but also compliance with the principle that all statutory powers must be exercised in good faith and for their proper purpose.
- 3.4 Delegation does not impliedly authorise sub-delegation. Consequently, a Committee or person to whom the Council has delegated any power may not permit another Committee or person to exercise that power unless the Council has expressly authorised them to do so.

4 Matters reserved to the Council

- 4.1 The Council retains ultimate responsibility for all policy matters including agreeing the overall strategy for the performance of its functions.
- 4.2 The power to make Rules is specifically reserved to the Council by Article 3(12) of the Order and cannot be delegated.
- 4.3 The Council retains responsibility for the following decisions which, to the extent that it is lawful to do so, may only be delegated by means of a specific resolution of the Council:
 - 4.3.1 establishing the Standards of Proficiency, Standards of Conduct, Performance and Ethics, Standards of Education and Training and Standards of Continuing Professional Development;
 - 4.3.2 prescribing good conduct and good character requirements for safe and effective practice;
 - 4.3.3 establishing criteria for the purposes of Article 13 (grandparenting criteria), Article 15 (approvals criteria) and Article 15B (criteria for approved mental health professionals courses) of the Order;
 - 4.3.4 making recommendations to the Secretary of State and the Scottish Ministers concerning the regulation of any profession or social care workers in England and giving guidance on the criteria that it will take into account in so doing;
 - 4.3.5 making any proposal to the Privy Council concerning the structure of the register;
 - 4.3.6 approving any report, plans or accounts to be submitted to the Privy Council, the Secretary of State or the Scottish Ministers;
 - 4.3.7 setting the fees to be charged for or associated with registration (including renewal, readmission, restoration and scrutiny fees);
 - 4.3.8 establishing any committee or sub-committee and making the Standing Orders for any committee or sub-committee;
 - 4.3.9 appointing members to any committee or sub-committee;
 - 4.3.10 appointing or removing the Chief Executive;
 - 4.3.11 appointing members to represent the Council on outside bodies;

- 4.3.12 entering into any arrangements with a body created or designated by the National Assembly for Wales under Article 20 of the Order;
 - 4.3.13 acquiring or disposing of any freehold or leasehold interest in land and property or other interest in land;
 - 4.3.14 re-structuring the Council's staff where the changes involve 20 or more employees.
- 4.4 The Council is also responsible for making decisions in relation to any matter for which it has granted delegated authority but where:
- 4.4.1 the person who would otherwise have delegated authority to act has an actual or potential interest; or
 - 4.4.2 in the opinion of the Chief Executive, it would be more appropriate for the Council to make the decision.

5 Matters delegated to the Education and Training Committee

Approving, for the purpose of Article 12 of the Order, qualifications awarded in the United Kingdom which attest to the Standards of Proficiency required for admission.

6 Matters delegated to the Chief Executive

- 6.1 Maintaining the register and establishing arrangements for its publication and inspection.
- 6.2 Issuing certificates of good standing to registrants who wish to practise in another relevant European State.
- 6.3 Referring any allegation received by the Council under Part V of the Order to a Practice Committee or to Screeners. This power may also be exercised by the Head of Fitness to Practise.
- 6.4 Exercising the power under Article 22(6) of the Order to refer a matter for investigation as if it was the subject of an allegation. This power may also be exercised by the Executive Director of Regulation.
- 6.5 Subject to any appointments procedure established by the Council, appointing:
 - 6.5.1 Visitors under Article 16 of the Order;
 - 6.5.2 Members and Panel Chairs of the Practice Committees (collectively, the Health and Care Profession Tribunal (the **Tribunal**)) under rules 3 and 4 of the Health and Care Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009; and
 - 6.5.3 Legal Assessors, Registrant Assessors, and Medical Assessors under Articles 34 to 36 of the Order.

This power may also be exercised by the Director of Human Resources and Organisational Development.

- 6.6 Prosecuting offences under Articles 39 and 39A of the Order (but subject to any prosecution policy established by the Council). This power may also be exercised by the Executive Director of Regulation.
- 6.7 Conducting and defending all proceedings brought by or against the Council in any court, tribunal or arbitration, other than proceedings relating to fitness to practise cases or proceedings under section 29 of the NHS Reform and Health Care Professions Act 2002.
- 6.8 Entering into arrangements for the provision of administrative, technical or advisory services under Article 44A of the Order.
- 6.9 Advising the Privy Council that a person has ceased to be a member of the Council. This power may also be exercised by the Secretary to the Council.
- 6.10 Maintaining and publishing the Register of Members' Interests. This power may also be exercised by the Secretary to the Council.

7 Matters delegated to the Chief Executive and any officer nominated by the Chief Executive

- 7.1 Determining applications for registration (but subject to any policies or procedures established by the Council or the Education and Training Committee).
- 7.2 Determining and administering the Council's employment procedures and processes.
- 7.3 Arranging any insurance on behalf of the Council where either the value of the premium payable does not exceed £50,000 or the renewal premium payable does not exceed the previous premium by more than 10%.
- 7.4 Tendering, awarding and varying contracts where the estimated total value does not exceed £100,000. The Chief Executive, with the approval of the Chair of the Council, may enter into contracts which exceed that limit (except in any case where the Council has resolved otherwise).
- 7.5 Approving the terms of any other agreement or transaction of a minor or urgent nature which, in the opinion of the Chief Executive, is in the best interests of the Council.
- 7.6 Managing any property owned by the Council or in which the Council has an interest including the submission of planning and building consent applications.
- 7.7 Inviting (but not selecting):
 - 7.7.1 the members of any Panel which is to determine a registration appeal; and
 - 7.7.2 the Legal Assessor who is to be present at a registration appeal hearing.
- 7.8 Publishing the particulars of decisions (and the reasons for them) made by the Council's Registration Appeals Panel.

- 7.9 Conducting and defending all proceedings brought by or against the Council in relation to registration appeals.
- 7.10 Appointing authorised persons for the purpose of Articles 37(7) of the Order.

8 Matters delegated to the Head of Fitness to Practise

- 8.1 Conducting and defending all proceedings brought by or against the Council in relation to fitness to practise cases and proceedings under section 29 of the NHS Reform and Health Care Professions Act 2002.
- 8.2 Appointing authorised persons for the purpose of Article 25(1) of the Order.
- 8.3 Requiring a person to comply with Article 25(2) of Order (certain information to be provided by a registrant who is the subject of an allegation). This power may be exercised by any person nominated by the Head of Fitness to Practise.
- 8.4 Seeking an extension by a court, under Article 31(8) of the Order, of an interim order made by a Practice Committee.

9 Matters delegated to the Head of Tribunal Services

- 9.1 Inviting (but not selecting) the Legal Assessor who is to be present at a Tribunal hearing.
- 9.2 Publishing the particulars of orders and decisions made by the Tribunal (and the reasons for them).

(The Head of Tribunal Services is also authorised by the Registrar under rules 3(2) and 4(3) of the Health and Care Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009, to invite Panel Chairs and Panel Members to participate in Tribunal proceedings.)

10 Matters delegated to the Head of Education

- 10.1 Inviting (but not selecting) the Visitors who are to conduct a visit or perform other functions under Part IV of the Order.
- 10.2 Publishing Visitors' reports and any responses to such reports (where the respondent has asked for it to be published).
- 10.3 Maintaining and publishing the Council's list of approved courses of education and training, qualifications and institutions.

11 Matters delegated to the Director of Finance

- 11.1 In conjunction with the Chief Executive, who is the Council's Accounting Officer:
 - 11.1.1 keeping the accounts and preparing the annual accounts of the Council in accordance with Article 46 of the Order;
 - 11.1.2 administering the Council's finances including, but not limited to, the day to day control and regulation of those finances.

5 July 2018