

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

Park House
 184 Kennington Park Road
 London SE11 4BU
 Telephone: +44 (0)20 7840 9785
 Fax: +44 (0)20 7820 9684
 e-mail: *sophie.butcher@hpc-uk.org*

MINUTES of the nineteenth meeting of the Conduct and Competence Committee held at **10:30am on Tuesday 19 September 2006** at the Health Professions Council, Park House, 184 Kennington Park Road, London, SE11 4BU.

Mr K Ross (Chairman)
 Mrs M Clark-Glass
 Ms H Davis
 Professor C Lloyd
 Mr P McFadden
 Mr D Proctor
 Miss P Sabine
 Dr G Sharma

IN ATTENDANCE:

Miss S Butcher, Secretary to Committees
 Mr M Guthrie, Policy Officer
 Miss K Johnson, Director, Fitness to Practise
 Mr M Seale, Chief Executive
 Miss E Seall, Manager, Fitness to Practise
 Professor A van der Gaag, President

Item 1.06/01 INTRODUCTION AND WELCOME

- 1.1 The Chairman welcomed Professor A van der Gaag to her first meeting of the Conduct and Competence Committee in her capacity as President.

Item 2.06/02 APOLOGIES FOR ABSENCE

- 2.1 One apology for absence was received from the following committee member; Ms H Patey.

Item 3.06/03 APPROVAL OF AGENDA

- 3.1 The Conduct and Competence Committee approved the agenda.

**Item 4.06/04 MINUTES OF THE CONDUCT AND COMPETENCE COMMITTEE
COMMITTEE MEETING HELD ON THURSDAY 20 APRIL 2006**

- 4.1 It was agreed that the minutes of the eighteenth meeting of the Conduct and Competence Committee be confirmed as a true record and signed by the Chairman.

Item 5.06/05 MATTERS ARISING

- 5.1 The Committee agreed that the matters arising were all items on the agenda.

Item 6.06/06 CHAIRMAN'S REPORT

- 6.1 The Chairman had nothing to report.

Item 7.06/07 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 7.1 The Committee received a report on the work of the Fitness to Practise department.
- 7.2 The Committee noted that the striking off sanction had been used regularly since the last meeting of the Committee. Further details regarding what the cases involved would be provided at the next meeting. The overall workload had increased for the fitness to practise team and four temporary members of staff had been employed to fix hearings.

Action : KJ – 22 November 2006

- 7.3 The Committee discussed the need to define what a serious allegation was and when an interim order was applied for. The Committee further discussed the usage of conditions of practice orders and their usage in review hearings. The Director of Fitness to Practise would provide the Committee with a report on review outcomes at the next committee meeting.

Action: KJ – 22 November 2006

- 7.4 The committee noted that 3 applicants had been denied registration through the health and character process.
- 7.5 It was noted that the first appeal against a registration appeal had been received. The protection of title and allegations policy would both be reviewed by Council at its meeting in December.
- 7.6 Meetings had taken place with a number of ambulance trusts regarding the effective exchange of information.

- 7.7 A legal assessor and panel review day would be held in October 2006 and feedback given to the Committee at their next meeting in November 2006.

Action: KJ – 22 November 2006

- 7.8 The Committee agreed that due to the increasing workload it was incumbent upon it to monitor the resources available.

Item8.06/08 DISCUSSION OF STRATEGY

- 8.1 The Committee discussed the overarching principles which would inform the Committees strategic plan. (Please see attached notes for your information).

Item9.06/09 FITNESS TO PRACTISE WORK PLAN AND PROCESS REPORT

- 9.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion.
- 9.2 The Committee noted that the workplan would be undertaken in stages with continued implementation well into the next financial year.
- 9.3 The fitness to practise work load was expanding. Up to 250 hearings had been scheduled for 2006/2007. The Committee noted that a review of staffing requirements and the structure of the department was under way. Legal fees accounted for up to 50% of the ftp budget therefore HPC needed to ensure that the financial requirements of the department for 2007/2008 were catered for adequately.
- 9.4 A key priority of the workplan was to invest in the training of the department. There were currently 13 staff members which was anticipated to increase next year. Team meetings were used as an opportunity to review sections of the HPC legislation and the ftp team were also being encouraged to complete a BTEC Level 5 Advanced Professional Certificate in Investigative Practice from Edexcel, the National Awarding Body.
- 9.5 The department were due to be audited on the 8 January 2007. The auditors would be looking to review key areas of risk.
- 9.6 The ftp team were currently reviewing the protocols in place for the HPC website and best practice in communication in the fitness to practise area.
- Practice notes
 - witness support provisions
 - ensuring accessibility of the fitness to practise process;
 - the prosecutions policy;
 - freedom of information provisions;

- service level agreements with Kingsley and Napley;
- Risk profiling.

- 9.7 The Committee were in agreement that with an expanding ftp workload, prioritisation should be given to the immediate issues which would affect the department in the year ahead. The communications strategy was identified as a key priority for building continued effective relationships with HPC's stakeholders. The ftp trends analysis was embedded into the workplan and was something which the Committee was keen to initiate.
- 9.8 The Director of Fitness to Practise would provide an updated workplan which factored in the value attached to the outcome of undertaking some priorities first over others. Overall the workplan was envisaged to be a work in progress for the next 2-3 years.

Action: KJ –22 November 2006

Item 10.06/10 STANDARDS OF CONDUCT, PERFORMANCE AND ETHICS REVIEW

- 10.1 The Committee received a paper from the Policy Officer for discussion/approval.
- 10.2 The Conduct and Competence Committee would provide the lead on the review of the Standards of Conduct, Performance and Ethics (SCPE) whilst taking into account feedback obtained from the other fitness to practise committee's. The Committee noted that no significant changes were warranted to the Standards following a review of changes in legislation. Other regulators such as the Nursing and Midwifery Council (NMC), the General Medical Council (GMC) and the Royal Pharmaceutical Society (RPS) were also reviewing their codes of conduct and united in the view that the Standards should be easy to understand with overarching principles that informed them.
- 10.3 The Committee agreed that clarification was needed in the introduction about how a registrant could meet their standards with the assistance of their professional bodies.
- 10.4 The Committee noted that the brackets had been omitted in Standard 4. Further clarification was needed on what constituted a minor motoring offence as it was too broad a definition.
- 10.5 It was found that the Standards were well used by panel members and panel Chairmen in Conduct and Competence cases. This information would be fed back to the Panel Chairmen at their review meeting.
- 10.6 The Committee agreed to the revision of the workplan which recommended the inclusion of more committee meeting dates to ensure that a thorough review of the Standards would be achieved. Time would also be allocated at the Council Away Day for further discussion of this topic.

- 10.7 The Committee noted that the review of the Standards was publicised on the HPC website, via a press release, a letter to the professional bodies and in the August 2006 newsletter. Feedback had been received and was being incorporated.
- 10.8 The Committee considered whether guidance should be issued on discrete areas of the Standards. Four potential topics had been identified; confidentiality, consent, medicines and prescribing and record keeping. The Committee noted that following an evaluation of these areas, the recommendation was that guidance should be produced on confidentiality and disclosure of information. This was based on the fact that a number of fitness to practise cases involved issues of personal data and the copying and removal of records. Data protection legislation would also need to be addressed as part of this. It was important that HPC had its own guidance to inform registrants and others about the HPC's standards. The Committee noted that there was a lot of guidance already produced on confidentiality but was happy to prioritise this in the first instance for issue as of year.
- 10.9 A first draft of guidance on confidentiality had been produced with case study examples that were profession specific. Further work was required on the incorporation of the Children's Act to address the distinction between parental viewpoints and a practitioner's. Certain clauses in guidance could be strengthened to prevent case outcomes that were problematic. Issues such as working from home and delegation issues were queries that had been received by the education department to date. Access to medical records and medical reports was identified for incorporation and could be included in the consultation with SCPE. A revised draft would be presented at the next meeting of the Committee identifying the most frequent case type.

Action: MG – 22 November 2006

Item 11.06/11 HIGH COURT APPEALS

- 11.1 The Committee received a paper for discussion from the Director of Fitness to Practise.
- 11.2 The Committee discussed an HPC case which had been referred by the Council for Healthcare Regulatory Excellence (CHRE). The case was referred as the decision to impose a caution order had been considered as unduly lenient. The case had been disposed of via a consent order. A reconvened panel of the Conduct and Competence Committee had now heard the remitted case. The panel imposed a suspension order for a period of 6 months. HPC incurred significant costs, as the organisation was ordered to pay all of CHRE's costs which amounted to £21,203.28 as well as legal costs of £16,003.74. The learning points from this case would be addressed at the panel members and Chairmen review day in October 2006.

Item 12.06/12 FITNESS TO PRACTISE BUDGET

- 12.1 The Committee received a paper from the Director of Fitness to Practise to note.
- 12.2 The Committee reviewed the fitness to practise budget.

Item 13.06/13 WITNESS QUESTIONNAIRE AND SERVICE LEVEL STANDARDS

- 13.1 The Committee received a paper from the Director of Fitness to Practise for information.
- 13.2 The Committee noted that a witness questionnaire had been devised to review the procedures that had been put in place to date for the general support of witnesses. A review of appropriate service level standards had also been undertaken to ensure that HPC's ftp processes were clear, open and transparent. The ftp database was identified as a means by which service level standards could be tracked.

Item 14.06/14 REVIEW OF DOCUMENTATION 'WHAT HAPPENS IF A COMPLAINT IS MADE ABOUT ME' AND 'MAKING A COMPLAINT ABOUT A HEALTH PROFESSIONAL'

- 14.1 The Committee received a paper from the Director of Fitness to Practise for information.
- 14.2 The Committee noted that a review of the documentation 'What happens if a complaint is made about me' and 'Making a complaint about a health professional' was to be undertaken in April 2007.

Action: KJ - April 2007

Item 15.06/15 ANY OTHER BUSINESS

- 15.1 There was no other business.

Item 16.06/16 DATE & TIME OF NEXT MEETING

- 16.1 The next meeting of the Conduct and Competence Committee would be held at 11:00am on Wednesday 22 November 2006.

Health Professions Council
Conduct and Competence Committee – 22nd November 2006

Strategy Discussion

Introduction

At the last meeting of the Conduct and Competence Committee, the Committee discussed the strategy and the direction of the Committee. The information that follows are the notes made by the Committee.

The Committee particularly focused its discussion around the three key areas of the HPC's strategic intent – improve, influence and promote. All of the below notes will form part of the development of the fitness to practise workplan for 2007/2008.

Foster and Donaldson

The committee had a brief discussion about the recommendations of the two reports. Council further discussed the reports at its away day

Finance and Operational

The Committee discussed the difficulties there were in effectively forecasting the budget required to run the fitness to practise function due its inherent reactive nature. They noted that the costs of running the ftp function were increasing.

Trends Analysis

The committee discussed how a trends analysis could be used as an education tool and that the following areas could be looked at initially:

- Complaints – type and complainant type
- Reviews – the committee noted that the number of review hearings was increasing and discussed how such cases should be effectively handled
- When is a complaint made – beginning or end of a career

The committee discussed how a trends analysis could aid the Council in communicating its role to its stakeholders – particularly to employers, the private sector and the public. It would aid in ensuring that complaints HPC was receiving were about fitness to practise, and that the HPC was the appropriate organisation to complain to.

A trends analysis would provide evidence to support anecdotal comments about the process, aid in ensuring accessibility and identify areas in the process that required improvement.

Other

The Committee also discussed the influence of the media and high court decisions on the fitness to practise process. They discussed how high court cases add to the cost of the FTP function.

The Committee noted the upcoming training programme for FTP in relation to the cost burden of running the FTP function, and identified how it was helpful to enhance the skills of existing staff.

Decision

This document forms part of the minutes of the meeting that took place on 20th September 2006. No decision is required

Background information

The functions of the Conduct and Competence Committee are set out in Article 27 of the Health Professions Order 2001 and in The Health Profession Council (Practice Committees) (Constitution) Rules Order of Council 2003

The three fitness to practise committees received a paper in September 2005 on the role of Fitness to Practise Panels.

The trends analysis will form part of the work plan for 2007/2008 and will be considered in-line with the budget plan for that year.

Council discussed the Foster/Donaldson recommendations at its away day on 4th and 5th October 2006. HPC's response to the report into non-medical regulation will be submitted on 10th November 2006

Resource implications

Undertaking such a trends analysis will have a high time and resource impact on the fitness to practise department. It is important to ensure that such an analysis does not negatively impact the day-to-day operational demands of the Fitness to Practise department.

Financial implications

Appendices

Article 27 of the Health Professions Order 2001

The Health Profession Council (Practice Committees) (Constitution) Rules Order of Council 2003

Notes of the Strategy Discussion from the Investigating Committee of 14th September 2006

Date of paper

6th November 2006

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2006-11-06	a	F2P	STRAT	Conduct and Competence-Strategy Discussion	Final DD: None	Public RD: None

The Conduct and Competence Committee

27. The Conduct and Competence Committee shall -

(a) having consulted the other Practice Committees as it thinks appropriate, advise the Council (whether on the Council's request or otherwise) on -

(i) the performance of the Council's functions in relation to standards of conduct, performance and ethics expected of registrants and prospective registrants,

(ii) requirements as to good character and good health to be met by registrants and prospective registrants, and

(iii) the protection of the public from people whose fitness to practise is impaired; and

(b) consider -

(i) any allegation referred to it by the Council, Screeners, the Investigating Committee or the Health Committee, and

(ii) any application for restoration referred to it by the Registrar.

Health Professions Council
Investigating Committee – 16th November 2006

Strategy Discussion

Introduction

At the last meeting of the Investigating Committee, the Committee discussed the strategy and the direction of the Committee. The information that follows are the notes made by the Committee.

The Committee particularly focused its discussion on its monitoring and review function, and considered the number of Fitness to Practise Committees. All of the below notes will form part of the development of the fitness to practise workplan for 2007/2008.

Monitoring and Reviewing

It was felt that a high-level analysis of cases that have been considered would assist the committee in producing, reviewing and developing guidelines for the panels that made case to answer decisions.

The Committee also discussed looking at the trends which related to the professions of the registrants considered by fitness to practise panels, and also trends in the decision making. This information would both aid consistency in decision making and identify areas which were frequently considered.

However, the Committee did identify that it was important to discuss what would be done with the outcome of the trends analysis when it was produced.

The committee identified the following areas as important:

- linking with the communications strategy in order to communicate lessons learnt (including communicating areas of concern to employers and to registrants;
- consistency in decision making;
- a trends analysis was also important to ensure public and patient confidence, and engender trust in the regulatory process;
- ensuring that the panels acting on behalf of the committee address the evidential test. This is key to ensuring consistency and fairness in decision making; and
- providing clearer information on what cases are employer rather than regulatory matters.

The Committee also discussed the use of internal tools when undertaking its monitoring function. The tools identified were as follows:

- issues identified through the HPC's ISO registration; and
- challenges identified via case management, operational areas or in the allegations process.

It was discussed whether the Director of Fitness to Practise's report should be used to identify case management concerns.

In relation to case management issues, the committee discussed how it was important to monitor Fitness to Practise case management issues, and for the Committee to be assured that operational case management problems are properly addressed.

It had already been identified that work needed to be done to further improve the accessibility of the fitness to practise process.

Protection of Title

The Committee discussed the need to continually review this function and whether there were recurring issues that needed to be addressed

One Fitness to Practise Committee

The Committee discussed the practicalities of the existence of three separate fitness to practise committees and proposed a joint meeting of all three fitness to practise committees to discuss matters of mutual concern.

Decision

This document forms part of the minutes of the meeting that took place on 14th September 2006. No decision is required

Background information

The functions of the Investigating Committee are set out in Article 27 of the Health Professions Order 2001 and in The Health Profession Council (Practice Committees) (Constitution) Rules Order of Council 2003

The review of the prosecutions policy is in the Fitness to Practise work plan as previously seen by all three Fitness to Practise Committees.

The three fitness to practise committees received a paper in September 2005 on the role of Fitness to Practise Panels.

The trends analysis will form part of the work plan for 2007/2008 and will be considered in-line with the budget plan for that year.

Resource implications

Undertaking such a trends analysis will have a high time and resource impact on the fitness to practise department. It is important to ensure that such an analysis does not negatively impact the day-to-day operational demands of the Fitness to Practise department.

Financial implications

Appendices

Article 27 of the Health Professions Order 2001
The Health Profession Council (Practice Committees) (Constitution) Rules Order of Council 2003

Date of paper

2nd November 2006



The Health Professions Council (Practice Committees) (Constitution) Rules 2003

CONSOLIDATED TEXT

**incorporating amendments made up to
1st January 2006**

This consolidated legislation has been produced for internal use by the Health Professions Council. It is not an official legislative text and readers must consult an authoritative version of the legislation for the purpose of interpreting or applying the law.

This document contains Crown Copyright material which is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland.

THE HEALTH PROFESSIONS COUNCIL (PRACTICE COMMITTEES) (CONSTITUTION) RULES 2003

The Health Professions Council, in exercise of its powers under paragraph 18 of Schedule 1 to the Health Professions Order 2001 and of all other powers enabling it in that behalf and after consulting in accordance with article 41(3) of that Order, hereby makes the following rules:

Citation and commencement

1. These Rules may be cited as the Health Professions Council (Practice Committees) (Constitution) Rules 2003 and shall come into force on 23rd May 2003.

Interpretation

2. In these Rules "the Order" means the Health Professions Order 2001.

...

Membership

3. The members of a Practice Committee shall be appointed by the Council in accordance with paragraph 19 of Schedule 1 to the Order and a Practice Committee shall consist of not less than nine members.

Chairman

4. The Council shall appoint from among its members a Chairman for each Practice Committee, and may appoint another member of the Committee to be its Deputy Chairman to act as chairman in the Chairman's absence.

Tenure

5. - (1) *A member of a Practice Committee shall serve—*

(a) for a period of two years; or

(b) if he is also a member of the Council, until any earlier date on which he ceases to be a member of the Council.²

(2) A member of a Practice Committee may resign at any time by notice in writing addressed to the Registrar.

¹ deleted by the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005, rule 3(1)

² substituted by the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005, rule 3(2)

(3) The Council may remove a person from office as a member of a Practice Committee

- (a) for a serious and persistent deficiency in his attendance, conduct or performance at meetings of the Committee;
- (b) if he is a member of the Committee by virtue of his being a registered professional and he:
 - (i) ceases to be wholly or mainly engaged in the practice, teaching or management of the relevant profession or in research in those fields, or
 - (ii) ceases to be registered in the part of the register relating to that profession; or
- (c) if he is a member of the Committee by virtue of his being a registered medical practitioner and he ceases to be so registered.

Vacancies

6. Where a person ceases to be a member of a Practice Committee the Council may fill the vacancy and the person appointed shall serve for the remainder of the term of the member he has replaced.

Standards for members

7. - (1) A member of a Practice Committee shall—

- (a) attend all meetings of the Committee unless there is good reason for him being unable to do so;
- (b) prepare for any meeting of the Committee by reading the agenda and any papers issued by the Committee or the Council which are relevant to any subject to be considered at that meeting; and
- (c) if he will not be attending a meeting of the Committee, take all reasonable steps to give advance warning of his absence to the Chairman.

(2) A member of a Practice Committee shall undertake education and training provided or organised by the Council from time to time so that he is properly informed about his responsibilities and, in particular, shall receive training in—

- (a) the functions of the Council, and the role of the Committee and its place in the work of the Council;
- (b) the effective conduct of proceedings by the Committee; and
- (c) the discharge by the Committee of its functions under Part V of the Order (fitness to practise) including the principles of natural justice, human rights and Community law.

Meetings

8. - (1) A Practice Committee shall meet at least *twice*³ each year at such places, times and dates as the Chairman may determine.

(2) The quorum for a meeting of a Practice Committee shall be five.

(3) At least once in every year a Practice Committee shall meet—

- (a) to review the allegations heard by the Committee during the previous 12 months;
- (b) to review the education, training, attendance and performance of its members during that period;
- (c) to consider the education and training requirements for its members for the following 12 months and make recommendations to the Council; and
- (d) in the case of the Conduct and Competence Committee, to review the standards of conduct, performance and ethics established by the Council under article 21(1)(a) of the Order.

(4) Subject to the provisions of the Order and these or any other rules made under it a Practice Committee may regulate its own procedure.

(5) *A resolution may be unanimously approved in writing whether or not electronically.*⁴

³ substituted by the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005, rule 3(3)(a)

⁴ inserted by the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005, rule 3(3)(b)