

Council

Public minutes of the 57th meeting of the Health Professions Council held as follows:-

Date: Wednesday 7 October 2009

Time: 1pm

Venue: Stormont Hotel, Upper Newtonards Road, Belfast, BT4 3LP

Present:

Anna van der Gaag (Chair)

John Donaghy

Sheila Drayton

Julia Drown

John Harper

Richard Kennett

Jeff Lucas

Morag MacKellar

Arun Midha

Penelope Renwick

Keith Ross

Deep Sagar

Eileen Thornton

Annie Turner

Joy Tweed

Diane Waller

Neil Willis

Mr G Butler, Director of Finance

Mr G Gaskins, Director of Information Technology

Mrs A Gorringer, Director of Education

Mr M Guthrie, Director of Policy and Standards

Ms L Hart, Secretary to Council

Ms T Haskins, Director of HR

Ms K Johnson, Director of Fitness to Practise

Mrs J Ladds, Director of Communications

Mr S Rayner, Secretary to Committees

Mr G Ross-Sampson, Director of Operations

Item 1.09/168 Chair's welcome and introduction

- 1.1 The Chair welcomed all members and members of the public to the meeting.
- 1.2 The Chair welcomed those present from the Health and Social Care Professionals Council in Dublin and the representative from the Department of Health office in Leeds.

Item 2.09/169 Apologies for absence

- 2.1 Apologies for absence were received from the following Council Members: Patricia Blackburn, Mary Clark-Glass and Malcolm Cross.

Item 3.09/170 Approval of agenda

- 3.1 The Council approved the agenda and agreed the inclusion of an additional private item which had been circulated with the Council papers and was labelled item 26.

Item 4.09/171 Declaration of Members' Interests

- 4.1 There were no interests declared.

Item 5.09/172 Minutes of the Council meeting of 10 September 2009 (report ref: - HPC134/09)

- 5.1 It was agreed that the minutes of the 56th meeting of the Health Professions Council be confirmed as a correct record and signed by the Chair.

Item 6.09/173 Matters arising (report ref:- HPC135/09)

- 6.1 The Council noted the actions list as agreed at the last meeting.

Strategy and Policy

Item 7.09/174 Practice Notes (report ref:- HPC136/09)

- 7.1 The Council received a paper for discussion/approval from the Executive.

7.2 The Director of Fitness to Practise introduced the report and explained that new practise notes had been drafted to aid panels that made decisions relating to fitness to practise cases. Following the restructuring of its committees, the Council now had statutory responsibility for the approval of practice notes although in future, these would be considered by the Fitness to Practise Committee prior to submission to Council.

7.3 During the course of discussion, the following points were raised:-

- That feedback from the Council for Healthcare Regulatory Excellence (CHRE) had been incorporated into the relevant practice notes;
- That the practice note relating to Equal Treatment should make provision for those people with learning difficulties that might require additional support from advocates;
- That, with reference to the practice note on Equal Treatment, the Court service had changed the method by which someone's sexual history could be cross-examined and so HPC's procedures should reflect this new approach;
- That further consideration needed to be given to where the information relating to transgender individuals should sit within the Equal Treatment practice note;
- Council noted that under the Health Professions Order 2001, there were the powers to compel witnesses to attend and give evidence;
- In response to a question, Council were informed that if a registrant had a caution order placed upon them, there was a note to that effect on the online Register and also the link to the decision notice.

7.4 Subject to the amendments detailed above, Council approved the Practice Notes as set out in the papers.

Item 8.09/175 Indicative Sanctions (report ref:- HPC137/09)

8.1 The Council received a paper for discussion/approval from the Executive.

8.2 The Director of Fitness to Practise introduced the report and explained that the Executive had reviewed the indicative sanctions policy to ensure that it remained fit for purpose. Feedback from HPC legal assessors and presenting officers had also been incorporated into the document.

8.3 Concern was expressed that the inclusion of the section on mediation under "sanctions" could be misleading as it states that "mediation is not really a sanction." After discussion, it was agreed that it would be more appropriate for paragraph 18 of the policy to come before paragraph 17.

- 8.4 In response to a question, Council were informed that the intention of the policy was not to be overly prescriptive since any sanction imposed was the decision of the panel and this document was not intended to fetter their discretion in any way.
- 8.3 The Council approved the Indicative Sanctions Policy, subject to the amendment detailed above.

Item 9.09/176 Guidance on Health and Character Process (report ref:- HPC138/09)

- 9.1 The Council received a paper for discussion/approval from the Executive.
- 9.2 The Council noted that a consultation had been held between January and April 2009 on draft guidance on the health and character process. A copy of the consultation document had been sent to key stakeholders including professional bodies, all education providers and student unions attached to each education programme. The revised guidance had been considered by the Education and Training Committee on 22 September 2009 and their amendments had been incorporated into the paper.
- 9.3 The Council were in agreement that it was important to convey that the guidance was intended to assist education providers in making their own decisions, not to be prescriptive. It was suggested that this message was made clear in the covering letter to be issued with the revised guidance.
- 9.4 During the course of discussion, the following points were made:-
- That under the section entitled “misconduct during the programme” on page 29 of the guidance, the opening statement “you may have your own procedures for handling misconduct which happens...” required strengthening;
 - That on page 30 of the guidance, also under the section entitled “misconduct during the programme”, the statement relating to informing HPC of the removal of a student from a programme owing to misconduct needed to be reconsidered;
 - With regard to the guidance on renewing registration, information was sought as to whether an “ASBO” would have an effect on registration and it was agreed that this would be clarified in the guidance.
- 9.5 The Council agreed:-
- (i) to publish the consultation responses on the HPC website; and

- (ii) the revised guidance on health and character subject to the amendments detailed above.

Item 10.09/177 Document Retention Policy – Fitness to Practise and Regulatory Activity (report ref:- HPC139/09)

- 10.1 The Council received a paper for discussion/approval from the Executive.
- 10.2 The Director of Fitness to Practise introduced the report and explained that the Fitness to Practise department had recently reviewed its practice in relation to the retention and destruction of different types of case files. As a result of that review, a policy had been produced which set out how the department would retain information, destroy manual and electronic files and publish information.
- 10.3 In relation to paragraph 2.8.2 of the policy, concern was expressed that those allegations not well founded would not be removed from the website immediately but “within one month of the Committee’s hearing.” It was agreed that flexibility was required and so the statement would be amended to state that the allegation would be removed from the website with immediate effect where possible, but no longer than one month from the date of the hearing.
- 10.4 There was discussion over the destruction of files of deceased individuals and Council were informed that this was an issue being looked at across the organisation and the HPC would be seeking legal advice in relation to best practise from a data protection perspective.
- 10.5 It was noted that the term “service users” should be used as opposed to “patients.”
- 10.6 Council approved the Document Retention Policy subject to the amendments detailed above.

Item 11.09/178 Recommendations to Secretary of State for Health about the regulation of sonographers (report ref:- HPC140/09)

- 11.1 The Council received a paper for discussion/approval from the Executive.
- 11.2 The Council noted that, at its meeting on 10 September 2009, it had made a final decision about an application from the Society and College of Radiographers for the regulation of sonographers. The Council had agreed to recommend a form of regulation of the aspirant profession to the Secretary of State for Health, under Article 3(17) (a) of the Health Professions Order 2001. However, the Council had asked the Executive to report to the October Council meeting, setting out the

text of the letter to be sent to the Secretary of State which outlined the issues raised during the course of debate.

11.3 The Council agreed the text of the letter.

Item 12.09/179 Response to a consultation on the Department of Health Steering Group Report on the Statutory Regulation of Practitioners of Acupuncture, Herbal Medicine, Traditional Chinese Medicine and Other Traditional Medicine Systems Practised in the UK (report ref:- HPC141/09)

- 12.1 The Council received a paper for discussion/approval from the Executive.
- 12.2 The Council noted that, in May 2008, the Department of Health steering group had published its report. The report had recommended regulation of acupuncturists, medical herbalists and traditional Chinese medicine practitioners. The Department of Health was now consulting on the report. The Council was invited to discuss and agree its response to the consultation.
- 12.3 The Council's discussion focused on the issues around English language proficiency and it was suggested that the part of the response relating to language could take a more pragmatic approach. It was also agreed that this part of the response should be more detailed and clearly articulate what the HPC considered to be important in terms of English language proficiency, acknowledging that a significant proportion of those already practising in the Chinese Medicine field in the UK may not be able to meet this requirement.
- 12.4 In the meantime, the HPC would encourage professional bodies to promote training and produce guidance on the use of interpreters and produce guidance and forms in Cantonese and Mandarin.
- 12.5 In discussion, potential concern was expressed that little was known about the effectiveness of Chinese medicine and that the HPC might expose itself to reputational damage by regulating a profession without a strong evidence base. The Council notes that the issue of efficacy was discussed when the Steering Group's report had been considered at the meeting on 11 September 2008. The Council had noted that although there was variation between the groups, some good evidence of efficacy did exist. The Council had recommended the regulation of these groups to the Secretary of State for Health, in recognition that this would afford protection for members of the public who use the services of members of these professions.
- 12.6 Reference was made throughout the document to "light touch regulation" and it was agreed that this suggested a lack of robustness and should be reworded.

- 12.7 The Council agreed the draft consultation document subject to the amendments detailed above and approved its submission to the Department of Health.

Item 13.09/180 22-26 Stannary Street Limited (report ref:- HPC142/09)

- 13.1 The Council received a paper for discussion/approval from the Executive.
- 13.2 The Council noted that 22-26 Stannary Street Limited ('the company') had been acquired with the Council's agreement in 2005 in order to acquire the premises at that address, to provide additional office and meeting room space. It was now proposed that the property should be transferred to HPC and the company should be wound up or made dormant. The Executive felt that the advantages of winding up the company (simplifying accounting, simplifying statutory reporting and eliminating the need for company directors and filing company returns) would outweigh the disadvantages (losing the remaining value of capital allowance tax benefits).
- 13.3 The Council noted that the Finance and Resources Committee and the Audit Committee had both discussed the issue. Both committees had agreed that Baker Tilly should write to HM Revenue and Customs (HMRC) to seek pre-transaction clearance for the transfer of the property.
- 13.4 Council were informed that advice was being awaited from HMRC but should the go-ahead to wind up the company not be given, the alternative approach was to allow the company to remain dormant for five years prior to winding it up.
- 13.5 The Council approved to the winding up of 22-26 Stannary Street, subject to confirmation from the HMRC regarding tax implications.

Item 14.09/181 Provision of laptops for members (report ref:- HPC 143/09)

- 14.1 The Council received a paper for discussion/approval from the Executive. The paper set out a proposal to facilitate use of laptop computers by Council and Committee members at meetings. The proposal had been considered by the Finance and Resources Committee meeting on 15 September 2009 and had been referred to Council.
- 14.2 Council were reminded that if they opted for the laptop allowance, there would be no IT Support available from the HPC and hard copies of papers would no longer be issued to them.

- 14.3 It was emphasised that this allowance was optional. However should members require some IT training so that they could use a laptop at meetings, secretariat would be willing to make the necessary arrangements.
- 14.4 The size of the allowance was discussed and it was agreed that taking into account the fact that it would be taxable and would need to pay for the cost of software and ongoing maintenance, this was a reasonable figure.
- 14.5 Council agreed to the introduction of an optional laptop allowance of £1500 available to Council and Committee members subject to the conditions set out in the report.

Item 15.09/182 Partner recruitment (report ref:- HPC 144/09)

- 15.1 The Council received a paper for discussion/approval from the Executive.
- 15.2 The Council agreed the recommendations as set out in appendix 1 of the report, to appoint those people listed as partners of HPC.

Corporate Governance

Item 16.09/183 Audit Committee nominations (report ref:- HPC145/09)

- 16.1 The Council received a paper for discussion/approval from the Executive.
- 16.2 The Council endorsed the decision of the Audit Committee to appoint Jeff Lucas as Chair and as the observer of the Finance and Resources Committee on their behalf.

Item 17.09/184 Public minutes of the Finance and Resources Committee held on 15 September 2009 (report ref:-HPC146/09)

- 17.1 The Council received a paper for discussion/approval from the Executive.
- 17.2 The Council approved the recommendations therein.

The Council noted the following papers:

Item 18.09/185 Equality and Diversity Scheme Action Report (report ref:- HPC147/09)

Item 19.09/186 Reports from council representatives at external meetings (report ref:-HPC148/09)

Item 20.09/187 Any other business

20.1 There was no other business.

Item 21.09/188 Date and time of next meeting

21.1 Tuesday 10 December 2009 at 10.30 am

Subsequent meetings on:

Tuesday 11 February 2010

Thursday 25 March 2010

Thursday 20 May 2010

Wednesday 7 July 2010

Resolution

The Council agreed to adopt the following resolution:-

“The Council hereby resolves that the remainder of the meeting shall be held in private, because the matters being discussed relate to the following;

- (i) information relating to a registrant, former registrant or application for registration;
- (ii) information relating to an employee or office holder, former employee or applicant for any post or office;
- (iii) the terms of, or expenditure under, a tender or contract for the purchase or supply of goods or services or the acquisition or disposal of property;
- (iv) negotiations or consultation concerning labour relations between the Council and its employees;
- (v) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (vi) action being taken to prevent or detect crime to prosecute offenders;
- (vii) the source of information given to the Council in confidence; or
- (viii) any other matter which, in the opinion of the Chair, is confidential or the public disclosure of which would prejudice the effective discharge of the Council's functions.

Item	Reason for Exclusion
22	i
23	-
24	ii
25	iii

Summary of those matters considered whilst the public were excluded

Item 22.09/189 Minutes of the private part of the Council meeting held on 10 September 2009 (report ref:- HPC149/09)

- 22.1 The Council considered and approved the minutes of the private part of the Council meeting held on 10 September 2009.

Item 23.09/190 Matters arising

- 23.1 The Council noted the oral update in relation to the Fitness to Practise issue discussed at the meeting of Council on 10 September 2009.

Item 24.09/191 Education and Training Committee (report ref:- HPC 150/09)

- 24.1 The Council approved the appointment of members to the Education and Training Committee as tabled, subject to the receipt of satisfactory references and appropriate checks.

Item 25.09/192 Minutes of the private part of the Finance and Resources Committee held on 15 September 2009 (report ref:- HPC151/09)

- 25.1 The Council considered the private minutes of the Finance and Resources Committee held on 15 September 2009 and agreed the recommendations therein.

Item 26.09/193 2009/2010 Year End Audit

- 26.1 The Council considered and approved a proposal to streamline the external audit process.

Chair:

Date: