
Council Meeting – 25 March 2010

Partner Appointments - Governance

Executive summary and recommendations

Introduction

A review is currently being undertaken of the contractual arrangements with regards to “Partners”. In the course of this work, it has become apparent that there are variations in the governance arrangements associated with some partner roles and, for example, in some cases a list of name continues to be presented to Council for formal appointments to be made.

Given that the Council requires appointments to be made on merit, following procedures similar to those used by the Public Appointments Commission, it would be more logical for final appointment decisions to be delegated to the Chief Executive (and with the Director of Human Resources also being authorised to exercise that power). This would also enable the Partners to be appointed, inducted and scheduled to do HPC work in a more timely manner. In order to achieve this, the Scheme of Delegation would need to be amended.

The Director of Fitness to Practise already has the delegated power to appoint the members of Panels etc. (but only from among those already appointed to the relevant partner role) and the Director of Education has similar powers in relation to Visitors. Those powers should remain the same but will need to be expressed slightly differently in the Scheme of Delegation so that it is clear that neither Director has the power to make the initial appointments.

This paper recommends amendments to the Scheme of Delegation as follows:-

1. In Paragraph 4 (matters reserved to the Council), in paragraph 4.3, which sets out the matters for which the Council retains responsibility unless they are delegated by means of a specific resolution, for sub-paragraph (i) substitute:

“(i) appointing members to any committee or sub-committee (other than the appointment of persons to a Practice Committee for the purpose of conducting fitness to practise proceedings);”

2. In Paragraph 6 (matters delegated to the Chief Executive), for paragraph 6.5, which sets out the partner appointments which may be made by the Chief Executive on behalf of the Council, substitute:

“6.5 Subject to any appointments procedure established by the Council, appointing:

(a) Visitors under Article of the 2001 Order;

- (b) persons to a Practice Committee for the purpose of conducting fitness to practise proceedings under Part V of the 2001 Order; and
- (c) Legal Assessors, Registrant Assessors, and Medical Assessors under Articles 34 to 36 of the 2001 Order.

This power may also be exercised by the Director of Human Resources.”

3. In Paragraph 8 (matters delegated to the Director of Fitness to Practise), for paragraphs 8.1 and 8.2 substitute:

“8.1 Appointing the members of any Panel which is to conduct fitness to practise proceedings or hear a registration appeal. Subject to any requirements of the 2001 Order concerning its composition, Panel members shall be selected by a random process.

8.2 Appointing, by means of a random process, the Legal Assessor who is to be present at a fitness to practise or registration appeal hearing.”

4. In Paragraph 9 (matters delegated to the Director of Education) for paragraph 9.1 substitute:

“9.1 Appointing Visitors to conduct a visit or perform other functions under Part IV of the 2001 Order. Subject to any requirements of the 2001 Order, Visitors shall be selected by a random process.”

Decision

- (i) The Council is asked to agree that the Council’s Scheme of Delegation be amended as above; and
- (ii) The consequential changes to the partner appointment process be made in the ‘Partner Appointments and Selection Policy’.

Resource implications

None

Financial implications

There are no financial implications

Appendices

Scheme of Delegation

Partner Appointment and Selection Policy

Date of paper

15 March 2010

SCHEME OF DELEGATION

1. Introduction

- 1.1. This scheme of delegation (**the Scheme**) is intended to facilitate the efficient and effective functioning of the Health Professions Council (**the Council**).
- 1.2. The Scheme is designed to ensure that, so far as possible, the Council and its Committees set policy and strategy and that the Executive implements that policy and strategy and is responsible for all operational matters.
- 1.3. The Scheme sets out:
 - (a) those decisions which the Council has reserved to itself;
 - (b) those decisions which it has delegated to its Education and Training Committee;
 - (c) those decisions which it has delegated to the Chief Executive and Registrar (**the Chief Executive**), some of which may also be exercised by nominated officers of the Executive or by persons nominated by the Chief Executive;
 - (d) those decisions which it has delegated to other nominated officers of the Executive.
- 1.4. The Executive, under the direction of the Chief Executive, remains responsible for day to day administration of the Council's affairs and nothing in the Scheme applies to any decision which is administrative in nature.

2. Withdrawal of delegated power

- 2.1. The Scheme remains in force unless and until it is amended or revoked by the Council.
- 2.2. The requirement to amend or revoke the Scheme does not apply to any matter where the Council is of the opinion that delegated authority should not be exercised. In that event, the Council may resolve that delegated authority shall not be exercised in relation to that matter.

3. Exercise of delegated power

- 3.1. Where power is delegated under the Scheme, the power must be exercised in a manner which is consistent with the Council's obligations under the general law and the Health Professions Order 2001 (**the 2001 Order**).
- 3.2. In particular, the decision maker must have regard to Article 3(4) of that Order, which provides that the main objective of the Council in exercising its functions is to safeguard the health and well-being of persons using or needing the services of registrants.
- 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 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 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 2001 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:
 - (a) establishing the Standards of Proficiency, Standards of Conduct, Performance and Ethics, Standards of Education and Training and Standards of Continuing Professional Development;
 - (b) prescribing good conduct and good character requirements for safe and effective practice;

- (c) establishing criteria for the purpose of Article 13 of the 2001 Order (grandparenting criteria) and Article 15 of that Order (approvals criteria);
- (d) making recommendations to the Secretary of State concerning the regulation of any profession;
- (e) making any proposal to the Privy Council concerning the structure of the register;
- (f) approving any report or accounts to be submitted to the Privy Council or the Secretary of State;
- (g) setting the fees to be charged for or associated with registration (including renewal, readmission, restoration and scrutiny fees);
- (h) establishing any committee or sub-committee and making the Standing Orders for any committee or sub-committee;
- (i) appointing members to any committee or sub-committee (other than the appointment of persons to a panel of the Council or a Practice Committee to hear a specific registration appeal or fitness to practise case);
- (j) appointing or removing the Chief Executive;
- (k) appointing members to represent the Council on outside bodies;
- (l) entering into any arrangements with a body created or designated by the National Assembly for Wales under Article 20 of the 2001 Order;
- (m) acquiring or disposing of any freehold or leasehold interest in land and property or other interest in land;
- (n) 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:

- (a) in which a person who would otherwise have delegated authority to act has an actual or potential interest;
- (b) which, in the opinion of the Chief Executive, would for any reason be more appropriately dealt with by the Council.

5. Matters delegated to the Education and Training Committee

- 5.1. Approving, for the purpose of Article 12 of the 2001 Order, qualifications awarded in the United Kingdom which attest to the Standards of Proficiency required for admission.
- 5.2. Maintaining and publishing the Council's list of approved courses of education and training, qualifications and institutions.

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 EEA State.
- 6.3. Referring any allegation received by the Council under Part V of the 2001 Order to a Practice Committee or to Screeners. This power may also be exercised by the Director of Fitness to Practise.
- 6.4. Exercising the power under Article 22(6) of the 2001 Order to refer a matter for investigation as if it was the subject of an allegation.
- 6.5. Appointing, at the request of a Council or Practice Committee Panel, registrant assessors and medical assessors in respect of any registration appeal or fitness to practise proceedings.
- 6.6. Prosecuting offences under Article 39 of the 2001 Order (but subject to any prosecution policy established by the Council). This power may also be exercised by the Director of Fitness to Practise.
- 6.7. Conducting and defending all proceedings brought by or against the Council in any court, tribunal or arbitration other than registration appeals, fitness to practise cases or proceedings under section 29 of the NHS Reform and Health Care Professions Act 2002.
- 6.8. 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.

- 6.9. 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. Issuing certificates of competence for the purposes of the Prescription Only Medicines (Human Use) Order 1997.
- 7.3. Determining and administering the Council's employment procedures and processes.
- 7.4. 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%.
- 7.5. Tendering, awarding and varying contracts where, in relation to contracts for building, construction or engineering works, the estimated total value is less than £25,000 and in all other cases where the estimated total value is less than £10,000.
- 7.6. Approving the terms of any other agreement or transaction of a minor or urgent nature which, in the opinion of the Executive, is in the best interests of the Council.
- 7.7. Managing any property owned by the Council or in which the Council has an interest including the submission of planning and building consent applications.

8. Matters delegated to the Director of Fitness to Practise

- 8.1. Appointing the members of any Council and Practice Committee Panel appointed to hear a registration appeal or conduct fitness to practise proceedings. Subject to any requirements of the 2001 Order concerning the composition of such Panels, members of a Panel shall be chosen by a random process.
- 8.2. Appointing, by means of a random process, the Legal Assessor who is to be present at any registration appeal or fitness to practise hearing.

- 8.3. Conducting and defending all proceedings brought by or against the Council in relation to registration appeals, fitness to practise cases and proceedings under section 29 of the NHS Reform and Health Care Professions Act 2002.
- 8.4. Publishing the particulars of orders and decisions (and the reasons for them) made by Council or Practice Committee Panels.
- 8.5. Appointing authorised persons for the purpose of Articles 25(1) and 37(7) of the 2001 Order.
- 8.6. Requiring a person to comply with Article 25(2) of 2001 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 Director of Fitness to Practise.
- 8.7. Seeking an extension by a court under Article 31(8) of the 2001 Order, of an interim order made by a Practice Committee.

9. Matters delegated to the Director of Education

- 9.1. Appointing Visitors to visit any place or institution for the purposes of Part IV of the 2001 Order (education and training). Subject to any requirements of that Part concerning the composition of Visitor panels, Visitors shall be chosen by a random process.
- 9.2. Publishing Visitors' reports and any responses to such reports (where the respondent has asked for it to be published).

10. Matters delegated to the Director of Finance

In conjunction with the Chief Executive, who is the Council's Accountable Officer:

- (a) keeping the accounts and preparing the annual accounts of the Council in accordance with Article 46 of the 2001 Order;
- (b) administering the Council's finances including, but not limited to, the day to day control and regulation of those finances.

HPC'S Selection and Appointment Policy for Partners

1. General Principals

- 1.1 The Health Professions Council (HPC) aims to have sufficient Partners, who are suitably trained to perform their individual partner role, to assist the HPC in meeting its obligations.
- 1.2 The HPC is committed to ensuring that no candidate receives less favourable treatment on the grounds of disability, sex, race, religion or belief, age, marital or civil partnership status, gender reassignment or sexual orientation.
- 1.3 These appointments do not come within the remit of the Commissioner for Public Appointments, They are being made using a process which takes into account the Commissioner's Code of Practice as best practice.

2. Purpose

- 2.1 The purpose of this policy is to:
 - a. Provide a fair and systematic basis for selecting the most suitable candidates and to ensure all selection procedures are carried out fairly and equitably.
 - b. Provide equality of opportunity for all candidates and to avoid unfair discrimination on any ground.

3. Scope of Policy

This policy applies to all Partner vacancies.

4. Objectives

- 4.1 The HPC is committed to ensuring that selection is undertaken in a professional manner enabling the appointment of a high standard of Partner.
- 4.2 It is essential that the selection process provides a positive image of the HPC to all candidates and that they receive all necessary and appropriate information.

5. Equal Opportunities and Diversity

The selection process will be reviewed regularly to ensure that it fulfils requirements in respect of equal opportunities and diversity.

6. Ring-Fencing

- 6.1 The HPC reserves the right to ring-fence vacancies for current Partners if applicable.
- 6.2 The necessity for ring-fencing will be identified by the relevant Departmental Head in discussion with the Partner Manager to ensure justification.
- 6.3 In the event that ring-fencing occurs, the HPC will nonetheless ensure that best practice selection is adhered to.

7. Appointment Panel

- 7.1 The appointment panel will conduct both the short listing exercise and interviews for the vacant position.
- 7.2 The appointment panel should consist of the following;
 - a. The Partner Manager (as the Human Resources Representative).
 - b. The relevant Department Manager.
 - c. The Chair or Vice Chair of the relevant committee. If for any reason the Chair or Vice Chair are unable to sit on the appointment panel their place will be taken by a member of HPC Council.

8. Short Listing

- 8.1 The appointments panel will complete a short-listing form. This will be forwarded to the Partner Manager who will complete the final shortlist form.
- 8.2 The Partner Manager (or Partner Administrator) will be responsible for inviting all short listed candidates to interview. The interview date should allow sufficient time for candidates to make arrangements to attend and for references relating to those short listed candidates to be received by the HPC.

9. The Interview

- 9.1 The main purpose of the interview is to measure candidates' suitability for the post.
- 9.2 The format of the interview is as follows:
 - a. The Chair of the appointments panel is responsible for: welcoming and relaxing candidates; introducing them to the

panel members; explaining the format that the interview will take and how long it is expected to last; and explaining that notes will be taken by panel members throughout the interview.

- b. Questions should be asked by the panel members to enable them to assess the candidates against the Person Specification.
- c. Interview notes should be signed by panel members to confirm that the notes are a true and accurate record of the interview. The Interview Record Form should be used for this purpose.

10. Assessment and Selection

- 10.1 Assessment of candidates should be based solely on the candidates' responses to the questions put to them by the panel members.
- 10.2 The successful candidate will match all of the essential criteria and the majority of the desirable criteria.
- 10.3 The assessment process should be co-ordinated by the Chair who, after discussion about each criterion, will complete the Interview Record Form on behalf of the panel. This form will be retained on the successful candidate's Partner file.

11. Concluding the Interview

- 11.1 Each candidate should be advised as to how and when they will be notified of the outcome of their interview.
- 11.2 The Chair should:
 - a. Ensure notes are taken throughout the interview in respect of each candidate.
 - b. Verify Professional Registration with the candidate.
 - c. Complete the Final Decision form in respect of each candidate appointed.
 - d. At the end of the interview process return all completed interview record forms and associated documents to the Partner Manager.

12. References

- 12.1 The HPC will apply for references prior to interview but these will not be considered by the Panel until a decision to appoint has been made subject to references.
- 12.2 All the HPC panel members must approve references before any offer of a Partner role is made.

13. Offer of Appointment

- 13.1 All Partner appointments have to be ratified by the HPC's Council, which can be done through virtual sign off and then confirmed in writing at the next Council Meeting.
- 13.2 Training will be arranged for the successful candidate in conjunction with the Department Head.

14. Resignations

- 14.1 If a Partner resigns this will be acknowledged in writing by the Partner Manager.
- 14.2 If a Council Member resigns or is not re-elected to sit on HPC's Council there is no automatic right for that ex-Council Member to become a Partner. If an ex-Council Member wishes to become a Partner they must apply through the standard Partner selection process detailed above.

15. Restrictions or Exceptions for Partner Roles

- 15.1 Council Members of the HPC are not eligible to perform the Partner role of Visitor on either a temporary or permanent basis.
- 15.2 Council Members of the HPC are not eligible to perform the Partner role of Registration Assessor on a permanent basis.

However, Council Members are eligible to perform this role on a temporary basis only, in exceptional circumstances. Exceptional circumstances are considered in the case where there is a shortage of Registration Assessors in a particular profession and modality, and there are no Partners available to perform this role. Council members are eligible for temporary appointment to this role only whilst recruitment takes place to fill the Partner role with a non-Council member.

- 15.3 Council Members of the HPC are not eligible to perform the Partner roles for the Fitness to Practise panels on either a temporary or permanent basis.
- 15.5 Former Council members or Presidents of the HPC are not excluded from applying to become Partners and are subject to the normal application process.
- 15.6 Partners who are the subject of any investigation procedures or determination against them concerning their fitness to practise for their profession may not sit on Fitness to Practise panel or perform the other Partner roles.

15.7 Candidates are required to declare any conflict of interest when applying for Partner roles. If there is a potential conflict of interest, this may prevent a Partner from being shortlisted for a Partner role.

20.8 In cases where there is an urgent and temporary need for a Partner role to be filled quickly and temporarily, temporary Partners may be appointed to a short term Partner Agreement which is less than the normal two year appointment without the formal advertising process outlined above.

16. Review

This policy will be reviewed on an annual basis by the Partner Manager other than where a statutory regulation requires its amendments.

Appendix One

RECRUITMENT AUTHORISATION FORM
(HPC Partners)

Profession to be recruited (title):

Proposed number required:

Names of Interview Panel Members:

Deadline for Training:

Reasons for recruitment:

Insufficient Numbers:

New Modality (please explain below):

New Position (please explain below):

Other (please explain below):

Advertising Medium:

HPC website:

National Press:

Specialist Press (please specify below):

Other (please specify below):

Authorised by :

Department Director/Manager:

Date:

Partner Manager:

Date:

Chief Executive & Registrar:

Date: