

Council – 3 December 2015

Code of Corporate Governance

Executive summary and recommendations

Introduction

The Code of Corporate Governance ('The Code') incorporates a series of regulatory documents and policies which govern how we operate, take decisions and the procedures followed to ensure that our actions are fair, efficient, transparent and accountable to our stakeholders.

The Code, which can be found on our website, is divided into five sections, namely, Council and Committees, Committee Terms of Reference and Rules, Roles and responsibilities of Members, Financial Regulations and Professional Liaison Groups.

Whilst some minor amendments have been made to the Code of Corporate Governance, a review has not been carried out since the meeting of Council in September 2013. Following a discussion held at the annual Council away day in October in relation to increasing the size of the Audit Committee, the opportunity has been taken to review the Code of Governance.

Proposed Changes

Increase to the size of the Audit Committee

In September 2013, the decision was taken to reduce the Audit Committee from four Members (comprised of all Council members) to three Members comprised two Council members and one independent member. It was decided to reduce the size of the Committee to reflect the reduction in the size of the Council that took effect on 1 January 2014.

During discussion at the Council Away day in October of this year, concern was expressed that the Committee was too small and there was strong support to move to a Committee comprising three Council members together with one independent member. In order to achieve that, an amendment to the Standing Orders of Committees is required. It should be noted that no further changes to the composition are required, for example, the Committee is still to be chaired by a member of Council. The quorum would change from two members to three members, as the general principle we apply is that the quorum of a Committee should be a bare majority, that is half of its members plus one.

The proposed amendments are set out in the appended draft Standing Orders of Committees.

Delegated authority: procurement

Paragraph 7.4 of the Scheme of Delegation (the Scheme) delegates authority to the Chief Executive to enter into contracts on HCPC's behalf where the estimated total value is less than £50,000. The estimated total value is the total expected to be paid over the lifetime of the contract (including VAT).

In the case of a contract with an estimated total value of £50,000 or more, the Chief Executive may only enter the contract with the approval of the Chair (unless the Chief Executive is exercising the urgency power in paragraph 7.5 of the Scheme). The requirement to act "with the approval of the Chair" does not mean that the Chair must sign the contract alongside the Chief Executive. The Chair's approval would normally be given in writing (which may be by email exchange) before the contract is signed.

The Council will be considering a revised Procurement Policy on 2 December 2015 and the Executive is recommending that the Chief Executive's sole authority to enter contracts is increased to those with an estimated value of up to £100,000. Since the limit applies over the lifetime of a contract, the present £50,000 limit applies to relatively low risk contracts which are not significant enough to require approval by the Chair. In order that the Procurement Policy and Scheme of Delegation are consistent, it is recommended that the limit in paragraph 7.4 is increased to £100,000.

(The opportunity has also been taken to address a minor flaw in the language used. The current limit of "less than" £50,000 actually means £49,999.99. Use of the phrase "does not exceed" makes clear that the limit is £100,000 and not that sum minus one penny).

The proposed amendments are set out in the appended draft version of the Scheme.

Delegated authority: registration appeals

Responsibility for the management of registration appeals is being passed from the Fitness to Practice Department to the Registration Department. As a result, a number of administrative functions in relation to registration appeals which are currently delegated to the Director of Fitness to Practise need to be re-assigned to the Chief Executive or an officer nominated by the Chief Executive.

The proposed amendments are set out in paragraphs 7 and 8 of the appended draft version of the Scheme.

Delegated authority: qualifications list

Currently, in addition to delegating the approval of UK qualifications to the Education and Training Committee, paragraph 5.2 of the Scheme also requires that Committee to maintain and publish the Council's list of approved qualifications. As the latter task is an administrative function, it is proposed that it be delegated to the Director of Education.

The proposed amendments for doing so are set out paragraphs 5 and 9 of the appended draft version of the Scheme.

Decision

Although the proposed amendments are relatively minor, in order to ensure that the Code remains coherent and easy to use, the Council is asked to approve these changes by adopting revised versions of the Standing Orders for Committees and the Scheme of Delegation and revoking the previous versions.

The amendments have been prepared by HCPC's Legal Counsel, who has confirmed that the amendments proposed in this report are the only changes which have been made to the current versions of the Standing Orders for Committees and the Scheme of Delegation.

The Council is requested to agree:-

That, subject to the amendments shown in those documents being made:

1. the draft Standing Orders of Committees presented to the Council are adopted and the existing Standing Orders of Committees are revoked; and
2. the draft Scheme of Delegation presented to the Council is adopted and the existing Scheme of Delegation is revoked.

Background information

None

Resource implications

None.

Financial implications

None.

Background papers

None

Appendices

Draft Standing Orders for Committees

Draft Scheme of Delegation

Date of paper

16 November 2015

STANDING ORDERS FOR COMMITTEES OF THE HEALTH AND CARE PROFESSIONS COUNCIL

1 Application and Interpretation

- 1.1 These Standing Orders, together with the provisions of the Health and Social Work Professions Order 2001 (**the 2001 Order**), establish the basic rules about how HCPC committees and sub-committees conduct their proceedings.
- 1.2 In these Standing Orders, **Committee** means any committee or sub-committee to which they apply and, unless the context requires otherwise, terms used in the Standing Orders have the same meaning as in the 2001 Order.
- 1.3 If a procedural point arises during a meeting which is not covered by these Standing Orders or the 2001 Order, the common law rules concerning the conduct of meetings will apply.
- 1.4 The Committee Chair is the final authority as to the interpretation of these Standing Orders.
- 1.5 These Standing Orders do not apply to the proceedings of the HCPC Practice Committees, the proceedings of which are governed by statutory rules made under the 2001 Order.

2 Composition of committees

- 2.1 The composition of the Education and Training Committee shall be determined by the Council in accordance with rules made by it under paragraph 17 of Schedule 1 to the 2001 Order.
- 2.2 The Audit Committee, which shall perform the functions set out in Annex A to these Standing Orders, shall comprise ~~three~~ **four** members, appointed by the Council on such terms as it shall determine of which:
 - 2.2.1 at least one member shall have recent, significant and relevant financial experience;
 - 2.2.2 at least two members shall be members of Council; and
 - 2.2.3 at least one member shall not be a member of Council.
- 2.3 The Remuneration Committee, which shall determine the salaries of the Chief Executive and members of the Executive Management Team and the salary scales for all other HCPC employees, shall comprise the Chair of the Council and two other Council members (none of whom shall be members of the Audit Committee), appointed by the Council on such terms as it shall determine.
- 2.4 The membership, terms of office and terms of reference of any other Committee shall be as determined by the Council.

3 Frequency of Meetings

- 3.1 Subject to Standing Order 3.2, the Committee shall meet at such times as the Committee shall determine.
- 3.2 As a minimum:
 - 3.2.1 the Education and Training Committee shall meet not less four times in each year, on dates correlated with the Council's cycle of meetings; and
 - 3.2.2 the Audit Committee shall meet not less than three times in each year, on dates which coincide with key dates within the financial reporting and audit cycle.

4 Adjournment of Meeting

- 4.1 The Chair may, with the consent of the Committee, adjourn a meeting, but no business shall be transacted at an adjourned meeting other than the business which had not been disposed of when the adjournment took place.
- 4.2 If a meeting is adjourned for more than seven days (but not otherwise), notice of the meeting shall be given in accordance with Standing Order 6.

5 Access to meetings

- 5.1 All meetings of the Committee shall be open to the public unless the business under consideration concerns:
 - 5.1.1 information relating to a registrant, former registrant or applicant for registration;
 - 5.1.2 information relating to an employee or office holder, former employee or applicant for any post or office;
 - 5.1.3 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;
 - 5.1.4 negotiations or consultation concerning labour relations between the Council and its employees;
 - 5.1.5 any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
 - 5.1.6 action being taken to prevent or detect crime or to prosecute offenders;
 - 5.1.7 the source of information given to the Committee in confidence; or
 - 5.1.8 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 Committee's functions.

6 Notice of Meetings

- 6.1 The Secretary shall give Members not less than seven days' notice of the time and place of a meeting.
- 6.2 If for any reason a meeting is convened at shorter notice, then the Secretary shall give Members notice of the time and place of the meeting at the time that the meeting is convened.
- 6.3 Failure to send notice of a meeting to a Member shall not invalidate the proceedings of that meeting.

7 Agenda

- 7.1 The Secretary shall issue an agenda for each meeting.
- 7.2 Except in cases of urgency or where circumstances make it impracticable to do so, the agenda for a meeting and any accompanying papers will be sent to Members seven days before the meeting.

8 Chair

- 8.1 The Chair of the Committee, who shall be appointed by the Council on such terms as it shall determine, shall preside at any meeting of the Committee.
- 8.2 If the Chair is absent from, or otherwise unable to preside at, a meeting the Members present shall nominate one of their number to serve as chair at that meeting.
- 8.3 In these Standing Orders, references to the **Chair** include a Member presiding at a meeting of the Committee in place of the Chair.

9 Quorum

- 9.1 The quorum at a meeting of the Committee shall be:
 - 9.1.1 in the case of the Education and Training Committee, as provided for in rules made by the Council under paragraph 17 of Schedule 1 to the 2001 Order;
 - 9.1.2 in the case of the Audit Committee, any ~~two~~ **three** Members;
 - 9.1.3 in the case of the Remuneration Committee, any two Members; and
 - 9.1.4 in any other case, half of the Members of the Committee plus one.
- 9.2 If a quorum is not present within 15 minutes of the time appointed for a meeting to commence, all business which should have been transacted at that meeting shall be held over until the next Ordinary Meeting, unless a Special Meeting is called in the meantime for the transaction of that business.
- 9.3 If, during a meeting of the Committee, it appears to the Chair that a quorum has ceased to exist, business will be suspended and the number of Members present counted and, if:
 - 9.3.1 a quorum exists, the business will proceed;
 - 9.3.2 a quorum does not exist, the meeting will be dissolved and all remaining business will be adjourned to the next meeting of the Committee.

10 Conduct of Meetings

- 10.1 The order of business at a meeting shall follow that set out in the agenda unless it is varied by the Chair with the consent of the meeting.
- 10.2 A Member may only initiate a debate or move a motion on a matter which is not on the agenda with the consent of the meeting.
- 10.3 All motions must relate to matters that are within or related to the functions of the Committee.
- 10.4 Members shall not make derogatory personal references or use offensive expressions or improper language to any other Member or any employee of the Council.
- 10.5 A Member must speak to the subject under discussion. The Chair may call attention to any irrelevance, repetition, unbecoming language or other improper conduct on the part of a Member and, where the Member persists in that conduct, may direct that Member to cease speaking.
- 10.6 A ruling by the Chair on any question of order, whether or not provided for by the Standing Orders, shall be final and shall not be open to debate.

11 Voting

- 11.1 Except where the 2001 Order specifies a different requirement, any question at a meeting shall be decided by a majority of the Members present voting by a show of hands.
- 11.2 In the event of an equality of votes, the Chair shall be entitled to an additional casting vote.

12 Minutes of meetings

- 12.1 The Secretary shall keep minutes of each meeting which shall include a record of the Members present at that meeting.
- 12.2 At each meeting, the minutes of the preceding meeting shall be confirmed (or confirmed as amended) and be signed by the Chair as a true record of that meeting.
- 12.3 The signed minutes of a meeting shall, unless the contrary is proved, be conclusive proof of the proceedings of that meeting.

13 Duration

Subject to Standing Order 9.2, a meeting shall start at the time set out in the notice of meeting and shall normally continue until all of the business on the agenda has been disposed of, but the duration of a meeting may only exceed three hours with the consent of the Members present.

14 Disorder

- 14.1 If, in the opinion of the Chair, a Member has persistently disregarded the ruling of the Chair or behaved in a manner which is obstructing the business of the meeting, the Chair may order that Member to withdraw from the whole or part of the remainder of the meeting.
- 14.2 In the event of a disturbance which, in the opinion of the Chair, prevents the orderly conduct of business, the Chair may adjourn the meeting for such period as the Chair considers appropriate.
- 14.3 If a person other than a Member interrupts the proceedings at any meeting, the Chair may order that person to be removed from the

meeting or may order the part of the room which is open to the public to be cleared.

15 Members' interests

- 15.1 Members shall make a declaration of their personal interests in the form required by the Council (which shall be published in the Council's Register of Members' Interests) and shall ensure that their interests as set out in that Register are accurate and up to date.
- 15.2 The agenda for every meeting shall include as an item of business the declaration of interests. A member who has a personal interest in any matter under consideration at that meeting, whether or not declared in the Register of Members' Interests, shall promptly disclose that interest to the meeting. If the interest is a prejudicial interest, the member shall withdraw from the meeting during the Committee's consideration of that matter.

16 Code of conduct

Members shall comply with the Code of Conduct adopted by the Council.

17 Members' education, training and performance

- 17.1 The Council shall establish standards of education and training for Members and, as part of those standards, shall arrange for Members to undergo training to assist them in their performance of their duties.
- 17.2 The Council shall establish standards of attendance and performance for members, including a system of annual performance appraisal.
- 17.3 Members shall comply with the standards established by the Council under this Standing Order and shall not, without reasonable excuse, refuse to participate in the training or appraisal processes.

18 Approval of resolutions without meeting

A resolution which, with the consent of the Chair, is circulated to, and approved in writing or electronic form by not less than three quarters of the Members entitled to receive notice of and attend a meeting of the Committee shall be as valid as if it had been passed at such a meeting.

19 The Secretary

- 19.1 The Registrar, or such other person as the Registrar may appoint, shall be the secretary to the Council.
- 19.2 In these Standing Orders, references to the **Secretary** mean the Registrar or, where a person has been appointed in accordance with Standing Order 19.1, that person.

20 The Registrar, Secretary and advisers

- 20.1 The Registrar shall be entitled to attend and speak at meetings of the Council.
- 20.2 The Secretary or any other person advising on the business before a meeting of the Council (including advising the Chair on issues of order) may attend and, with the consent of the Chair, speak at that meeting.

21 Adoption

These Standing Orders were adopted by the Council on ~~17th September 2013~~ **3rd December 2015** and supersede all previous versions. They apply to any⁹ Committee meeting held on or after 1st January ~~2014~~ **2016**.

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 and Care 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 the Executive implements that policy and strategy and is responsible for all operational matters.
- 1.3 The Scheme sets out:
 - 1.3.1 those decisions which the Council has reserved to itself;
 - 1.3.2 those decisions which it has delegated to its Education and Training Committee;
 - 1.3.3 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;
 - 1.3.4 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 HCPC'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, it must be exercised in a manner which is consistent with the Council's obligations under the general law and the Health and Social Work 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 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 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:
 - 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 2001 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 2001 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:

4.4.1 in which a person who would otherwise have delegated authority to act has an actual or potential interest;

4.4.2 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 relevant European 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 Subject to any appointments procedure established by the Council, appointing:

6.5.1 Visitors under Article 16 of the 2001 Order;

6.5.2 Practice Committee panellists (Panel Members and Panel Chairs); and

6.5.3 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.

6.6 Prosecuting offences under Articles 39 and 39A 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 proceedings relating to ~~registration appeals~~ or 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 2001 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 ~~is less than £50,000~~ **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 Appointing (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 2001 Order.

8 Matters delegated to the Director of Fitness to Practise

- ~~8.1 Appointing (but not selecting) the members of any Panel which is to hear a registration appeal.~~
- 8.1** Appointing (but not selecting) the Legal Assessor who is to be present at a fitness to practise ~~or registration appeal~~ hearing.
- 8.2** 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.
- 8.3** Publishing the particulars of orders and decisions (and the reasons for them) made by Council or Practice Committee Panels.

- 8.4 Appointing authorised persons for the purpose of Articles 25(1) and ~~37(7)~~ of the 2001 Order.
- 8.5 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.
- 8.6 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 (but not selecting) Visitors to conduct a visit or perform other functions under Part IV of the 2001 Order.
- 9.2 Publishing Visitors' reports and any responses to such reports (where the respondent has asked for it to be published).
- 9.3 **Maintaining and publishing the Council's list of approved courses of education and training, qualifications and institutions.**

10 Matters delegated to the Director of Finance

- 10.1 In conjunction with the Chief Executive, who is the Council's Accounting Officer:
 - 10.1.1 keeping the accounts and preparing the annual accounts of the Council in accordance with Article 46 of the 2001 Order;
 - 10.1.2 administering the Council's finances including, but not limited to, the day to day control and regulation of those finances.

4 December 2014
3 December 2015