

Council, 26 March 2015

Fitness to Practise – Employer engagement

Executive summary and recommendations

Introduction

One of the 2014-15 workplan projects for the Fitness to Practise Department was the enhancement of our engagement with employers and in particular, the information sources we have available to them.

This project was partly driven by the recommendations of Sir Robert Francis QC's report of the Mid Staffordshire NHS Foundation Trust Public Inquiry and partly by our own identification of the need to enhance our engagement with employers given that they are our second largest complainant group.

This paper explains our research methodology, the findings and the work we have undertaken in response.

Decision

The Council is invited to discuss this paper, no decision is required.

Background information

There is no additional background information.

Resource implications

There are no additional resource implications as a result of this paper.

Financial implications

There are no additional financial implications as a result of this paper.

Appendices

Appendix 1 Information for employers and managers – the fitness to practise process (revised March 2015)

Appendix 2 Employer referral form and guidance note

Date of paper

4 March 2015

1. Introduction

- 1.1 One of the 2014-15 workplan projects for the Fitness to Practise Department was the enhancement of our engagement with employers and in particular, the information sources we have available to them.
- 1.2 This project was partly driven by the recommendations of Sir Robert Francis QC's report of the Mid Staffordshire NHS Foundation Trust Public Inquiry and partly by our own identification of the need to enhance our engagement with employers given that they are our second largest complainant group.
- 1.3 This paper explains our research methodology, the findings and the work we have undertaken in response.

2. Research methodology and findings

- 2.1 We undertook a programme of research to gather information and feedback from different perspectives including employers themselves (both those who have direct experience of the fitness to practice process and those who do not). This work included:
 - researching the approach of other health and social care regulators;
 - conducting workshops with fitness to practise operational staff;
 - assessing the complaints we have received from employers about the fitness to practise process;
 - undertaking focused feedback sessions at two HCPC employer events;
 - an online survey for employers which was live on the HCPC website for one month in the summer of 2014 to which we received 285 responses; and
 - conducting one to one telephone interviews with employers who had recent experience of the fitness to practise process.
- 2.2 The research indicated a broadly positive view of the information sources already available. However, it also indicated there were areas of improvement, particularly in the type and format of information provided.
- 2.3 The research identified the following enhancements:
 - additional information about what constitutes a fitness to practise concern; when to refer; what information should be sent with a concern; and time scales for how long the process will take;
 - a flowchart of the fitness to practise process;
 - guidance on local resolution and circumstances where a fitness to practise referral may not be necessary;
 - case studies and examples of each stage of the process;
 - HCPC to have one point of contact at an employer;
 - references to the HCPC website to be specifically indicated by links; and
 - direct advice or discussion with the Fitness to Practise Department.

3. Work undertaken

3.1 We have now undertaken the following work in response to the research findings. It is hoped that our information sources now better support employers in making decisions about what, when and how to refer matters to us and will also improve how employers engage with the fitness to practise process.

3.2 Brochure - Information for employers and managers: the fitness to practise process

This brochure has been revised and is due to be published in April 2015. It was last revised in August 2012 (name changes only) and in October 2010. The revised brochure has been certified by the Plain English campaign.

The revised brochure focuses on providing information which is directly relevant to employers rather than the fitness to practise process in general. It is explicit on areas such as when to refer a fitness to practise concern and the time scales involved. It also includes a detailed flowchart of the fitness to practise process and new sections on local resolution, the standard of acceptance and what happens if previous concerns are raised about an employee.

3.3 Employer referral form

This form has been revised and became operational in January 2015.

The revised form focuses on supporting employers when making referrals and makes sure that they provide us with the information we need to deal with their referral as quickly and as efficiently as possible. The form has new questions, such as asking for a point of contact at the employer and asking how long the registrant has worked for the employer; in what roles; and if any similar concerns have been previously raised. It also has new sections, such as a supporting documents checklist and a declaration which asks the employer to confirm they have provided accurate information and that they understand it will be shared with the registrant.

Initial feedback received from fitness to practise operational staff is that when using the revised form employers are providing more information with their referrals which is helpful with the initial stages of assessing a concern.

3.4 HCPC employer events

We have refreshed the fitness to practise session of our employer events with a revised presentation; new case studies; and one to one sessions with Case Managers.

The revised presentation reflects the revised brochure and focuses on providing information directly relevant to employers rather than the fitness to

practise process in general. The new case studies have been specifically chosen as they highlight issues which are of particular concern to employers, for example, local resolution and when to refer. The one to one sessions are an opportunity for employers to discuss any specific questions or issues they may have with a Case Manager on a face to face basis.

The refreshed fitness to practise session is due to be piloted at the employer event in Edinburgh on 11 March 2015. The feedback we receive at this event will be used to assess if any further revisions are required for the remaining 2015 events.

3.5 Website

The 'Information for employers and managers' pages on the fitness to practise section of the website will be updated in April 2015 to reflect the revised brochure. There will also be a dedicated case study page.

3.6 Points of contact at large employers

With some of the larger employers of our registrants, such as CAFCASS and the Ambulance Trusts, we have established a single, point of contact at the employer for fitness to practise operational staff to liaise with to request information and to facilitate the effective and efficient management of concerns.

4. Evaluation

- 4.1 We will keep the work undertaken in this area under review and will make any amendments or further enhancements as appropriate. We will also conduct a full evaluation of the work undertaken in 2016-17. This timescale allows for the work undertaken to become sufficiently established. As part of the evaluation we will analyse relevant statistical data and will re-run some of the feedback mechanisms used in the research, for example, the workshops with fitness to practise operational staff and the focus groups at employer events.

The fitness to practise process – information for employers and managers

About this brochure

This brochure gives you information as an employer or manager of one of our registrants (professionals on our Register). It explains what you should do if you have concerns about someone's fitness to practise, and when you should make us aware of any concerns. We try to make our processes as open and clear as possible and we hope the information in this brochure helps you through the fitness to practise process.

About us

We are a regulator and were set up to protect the public. We keep a register of health and care professionals who meet our standards for their training, professional skills and behaviour. For more information about us and the professions we regulate, visit our website at www.hcpc-uk.org/aboutus.

About fitness to practise

When we say that someone is 'fit to practise' we mean that they have the skills, knowledge and character needed to practise their profession safely and effectively. However, fitness to practise is not just about professional performance. It also includes acts by a registrant which may affect public protection, or confidence in the profession or the regulatory process. This may include matters not directly related to professional practice.

What is the purpose of our fitness to practise process?

Fitness to practise proceedings are about protecting the public. They are not a general complaints-resolution process. They are not designed to deal with disputes between registrants and service users or registrants and employers or managers.

Our fitness to practise process is not designed to punish registrants for past mistakes. It is designed to protect the public from those who are not fit to practise. If we decide that a registrant's fitness to practise is 'impaired', it means that there are concerns about their ability to practise safely and effectively. This may mean that they should not practise at all, or that they should be limited in what they are allowed to do. If this is the case, we will take appropriate action to make this happen.

Sometimes registrants make mistakes that are unlikely to be repeated. This means that the registrant's fitness to practise is unlikely to be impaired. People sometimes make mistakes or have a one-off instance of unprofessional conduct or behaviour. We will not pursue every isolated or minor mistake.

When will a registrant's fitness to practise be found to be impaired?

We consider every case individually. However, a registrant's fitness to practise is likely to be impaired if the evidence shows that they:

- were dishonest, committed fraud or abused someone's trust;
- exploited a vulnerable person;
- failed to respect service users' rights to make choices about their own care;
- have health problems which they have not dealt with, and which may affect the safety of service users;
- hid mistakes or tried to block our investigation;
- had an improper relationship with a service user;
- carried out reckless or deliberately harmful acts;
- seriously or persistently failed to meet standards;
- were involved in sexual misconduct or indecency (including any involvement in child pornography);
- have a substance abuse or misuse problem;
- have been violent or displayed threatening behaviour; or
- carried out other, equally serious, activities which affect public confidence in their profession.

For fitness to practise case studies visit our website at [\[to follow\]](#).

Our standards

When considering fitness to practise cases, we take account of the standards we have published. The two sets of standards we use are the standards of proficiency (we publish a separate set of standards for each profession we regulate) and the standards of conduct, performance and ethics (which are the same for all professions). You can download these documents from www.hcpc-uk.org/aboutregistration/standards or phone us on 0845 300 6184 and we will send you a copy in the post.

You may find it helpful to refer to our standards when deciding whether to raise a concern with us about whether an employee is fit to practise.

Raising a fitness to practise concern

Who can raise a fitness to practise concern?

Anyone can contact us and raise a concern about a registrant. This includes members of the public, employers and managers, the police and other registrants.

We can still proceed with fitness to practise concerns even if they are received in a more unusual way (for example, from a newspaper article). This legal power also

means we can take a case forward even if the person or organisation who has referred a concern to us wants to withdraw from the process.

What types of cases can you consider?

We can only consider cases about fitness to practise, which we have explained in more detail above. The types of cases we can consider are those that question whether a registrant’s fitness to practise is ‘impaired’ (negatively affected) by the following factors.

<p style="text-align: center;">Misconduct</p> <p>Behaviour which falls short of what can reasonably be expected of a registrant. For example:</p> <ul style="list-style-type: none"> • failure to provide adequate care; • failure to maintain professional boundaries with a service user; • breach of patient confidentiality; • visiting inappropriate websites in the workplace; or • falsely claiming sick leave. 	<p style="text-align: center;">Lack of competence</p> <p>Lack of knowledge, skill or judgement (usually repeated and over a long period of time) which means a registrant is unfit to practise. For example:</p> <ul style="list-style-type: none"> • poor record-keeping; • inadequate professional knowledge; • inadequate risk assessments; or • poor clinical reasoning.
<p style="text-align: center;">Caution or conviction</p> <p>For an offence in the UK (or somewhere else for an offence that would be a crime if committed in England and Wales). For example:</p> <ul style="list-style-type: none"> • theft; • fraud; • child pornography; • possession of a controlled drug; • assault by beating; or • harassment. 	<p style="text-align: center;">Physical or mental health</p> <p>Long-term, untreated or unacknowledged physical or mental-health condition. For example:</p> <ul style="list-style-type: none"> • unmanaged serious mental illness; • long-term, untreated alcohol or drug dependence; or • failure to make reasonable adjustments to make sure service users are safe in light of a physical or mental-health condition.
<p style="text-align: center;">A decision made by another regulator responsible for health and social care</p> <p>For example, a decision by a healthcare regulator in another country.</p>	

For fitness to practise case studies, visit our website at [\[to follow\]](#).

We can also consider allegations about whether an entry to our Register has been made fraudulently or incorrectly. For example, the person may have given us false information when they applied to be registered.

Because our function is to protect the public, we can investigate concerns relating to events which happened at any time or which took place before the registrant was registered. However, we will not normally proceed with concerns that are made more than five years after the events giving rise to them. This is so we can get the best possible evidence about the concerns, for example, witnesses will be able to recall events more easily.

What we cannot do

We cannot:

- consider employment issues, such as hours of work, employment contracts, lateness or poor timekeeping (unless there has been a direct negative effect on service users), personality conflicts (unless there is evidence of bullying and harassment) or sickness absence (unless there is evidence of misconduct or the registrant is failing to manage their fitness to practise);
- consider consumer issues or business disputes;
- deal with customer-service issues;
- deal with disputes between registrants and service users or registrants and employers or managers;
- get involved in care or social-care arrangements;
- arrange refunds or compensation;
- fine a registrant;
- give legal advice;
- make a registrant apologise;
- consider cases about professionals who are not registered with us; or
- consider cases about organisations (we only deal with cases about individual registrants).

Resolving issues locally

We recognise that every day, employers and managers deal with situations concerning the misconduct, lack of competence and ill health of their staff, and that this will include situations with our registrants. In most cases, these situations can be resolved quickly and proportionately through local procedures.

If issues are resolved satisfactorily at a local level, it is unlikely that there will be evidence to suggest that the registrant's fitness to practise is impaired. So if it is referred to us, we would normally close the case without taking any further action. We are unlikely to find evidence that a registrant's fitness to practise is impaired in cases:

- relating to relatively minor conduct, competence or health issues;
- where the registrant has acknowledged, and has insight into, any failings;
- where appropriate remedial action has been taken;
- where the behaviour is unlikely to be repeated; and
- which do not raise any wider public-protection issues, such as confidence in the profession or regulatory process or deterring other registrants.

The following are examples of where it is unlikely we would take any action because a concern has been satisfactorily resolved at a local level.

A paramedic in a rapid-response car was called to give support to a private ambulance crew who were treating an elderly patient. The paramedic administered morphine to the patient and instructed one of the crew members, an emergency-care assistant (ECA), to continue to administer morphine on the way to hospital if the patient's pain did not subside. The paramedic followed the crew to hospital in his car. During the journey the ECA administered the morphine to the patient as instructed by the paramedic. This was illegal as a paramedic cannot authorise someone else to administer morphine. The ECA was not aware of this and just followed the instructions given by the paramedic. The patient was not harmed.

When the paramedic's employer (a[n] NHS ambulance service) was made aware of the incident, they investigated the matter. No interim restrictions were imposed on the paramedic's practice while the incident was investigated. The employer had no other concerns about the paramedic's fitness to practise.

During the investigation the paramedic showed insight and was open and honest about his actions. He said he thought the ECA was more senior and that he had travelled behind the crew and left the patient in their care as they had already established a rapport with the patient. He acknowledged that he was not clear about whether ambulance clinicians (other than paramedics) could give morphine.

The employer considered the case and decided that the registrant needed to address some learning gaps in relation to managing medicines and what other ambulance clinicians can and cannot do. The employer did not feel that disciplinary action was necessary and that a 12-week action plan should be put in place to support the registrant's learning in the areas identified.

The registrant successfully completed the action plan and received a positive appraisal. The employer closed their investigation and the registrant continued with his normal duties.

A social worker accessed and viewed parts of her mother-in-law's (a service user) electronic social-work records on two occasions. The social worker had no professional reason to access and view the records.

When the social worker's employer (a local council), found out, they investigated under their disciplinary procedure. The council held an initial meeting with the social worker who admitted to accessing the records and said she did so to see what the assessment situation was in relation to her mother-in-law as she had been unable to speak to the social worker involved. She also took full responsibility for her actions. Due to this meeting, and as the council had no other concerns about the social worker's fitness to practise, she was not suspended or restricted from her usual duties during the investigation. However, they did restrict access to her mother-in-law's records.

Following the investigation, a disciplinary hearing considered the case and found that the social worker's actions constituted misconduct and went against – the council's code of conduct and data-handling policies and procedures. They also found that while at the time of the incidents the social worker did not appear to consider the seriousness or possible consequences of her actions, since then she acknowledged that her actions were wrong and she had shown insight and reflected on her conduct and apologised. They also decided her motivation was to help her mother-in-law. The hearing decided that the social worker should be given a 12-month warning. It was also recommended that a development plan around work and personal boundaries should be drawn up and that the social worker's use of the electronic record system be monitored for six months.

A social worker has had a history of depression and 10 years ago was diagnosed with bipolar disorder. Throughout this time, the social worker has had numerous occupational health assessments and five years ago, following a suicide attempt, appeared before his employer's capability panel who recommended a phased return to work. The employer has had no concerns about the social worker's standard of practice and his mental-health condition has not had a negative effect on service users.

The social worker attempted suicide again more recently and was sectioned under the Mental Health Act. When he was released from hospital he was on medication, being monitored by his GP and a psychiatrist and under the care of the local community mental health team who visited him at home twice a week. His employer arranged for an occupational health assessment which found that he was not fit to work. Because of this he was on long-term sick leave.

At an occupational health assessment five months after the social worker was discharged from hospital, he was found fit to return to work. A phased return with reduced hours (gradually building up to full hours) with regular management contact and caseload reviews was arranged.

What concerns should I tell you about?

Whether or not you need to tell us about a concern will depend on the circumstances and its seriousness. The information above will help you make this decision. However, we should be told if:

- the behaviour or actions of a registrant have raised concerns about their fitness to practise;
- you have dismissed or suspended a registrant or there is a case of serious misconduct; or
- you have taken the decision to downgrade the status of a registrant (for example, you restrict the work they can do, you place them under supervision, or you move them to a lower-skilled or lower-paid job).

It is up to you as the employer or manager to decide whether you refer a concern to us. As a result, as well as recording your evidence and reason for making a referral, you should also record your evidence and reason for deciding not to make a referral, in case this is needed in the future. You do not need to tell us when you decide not to make a referral.

If you or anyone in your organisation is in any doubt about whether we need to be told, you should contact us. We will work with you wherever possible and we are always willing to discuss matters on a case-by-case basis. If you have any questions, you should phone us on 0800 328 4218 and speak to a case manager.

Remember that issues that cause you to take disciplinary action may not result in us placing any sanction on the registrant. In other cases, we may take more serious action than you. This may mean that the registrant cannot work in their profession or has restrictions placed on their practice. Fitness to practise and employment processes are different and can result in different outcomes.

When should I refer a concern to you?

You should refer a concern to us immediately if:

- your concerns are serious, for example, they involve dishonesty, violence or detriment or harm to service users;
- you have dismissed, suspended or downgraded a registrant's status while you are investigating a fitness to practise concern about them or as a result of your investigation;
- a registrant resigns while you are investigating a fitness to practise concern about them; or
- a registrant has been charged with, cautioned for or convicted of a criminal offence.

Otherwise, you should normally refer a concern to us when you know the outcome of your disciplinary process.

Letting us know about a matter does not necessarily mean we will begin

Fitness to practise proceedings immediately, or ask you to suspend or end your own procedures. In many instances it will be more appropriate for us to wait until you have finished your procedures.

Even if we do not immediately pursue a concern, once we have been told about it, we are better placed to protect the public. For example, once we are made aware of a concern, the registrant involved cannot avoid the consequences by removing themselves from the Register or allow their registration to end. We can also place interim restrictions on a registrant's right to practise, if that proves to be appropriate. You can find more information about interim orders below.

Under our standards of conduct, performance and ethics, registrants have a responsibility to tell us important information about their conduct and competence. This is particularly the case when a registrant has:

- accepted a caution from the police;
- been found guilty of a criminal offence;
- had any restriction placed on their practice; or
- been suspended or dismissed by an employer, manager or similar organisation because of concerns about their conduct or competence.

However, registrants do not always do this, so you should let us know about any concerns you may have about a registrant's fitness to practise.

What are interim orders?

If an allegation is serious enough to suggest that the registrant may be a risk to themselves or to others, or there are other reasons in the public interest, we may apply for an interim order. An interim order prevents a registrant from practising, or places limits on their practice, until the case is heard. If an interim order is imposed, it will apply immediately.

Examples of cases where we may apply for an interim order include sexual misconduct, serious mistakes or self-administering controlled drugs in the workplace. These are not the only examples where we may ask for an interim order. We consider each case on its own merits. In most cases we will not ask for an interim order and that means the registrant can continue to work without restriction. If we know that you are their employer or manager, we will let you know if an interim order is imposed against your employee.

You can find more information about interim orders on our website at www.hcpc-uk.org/complaints/registrants/interimorders or in our Interim Orders practice note. You can download this practice note from www.hcpc-uk.org/publications/practicenotes/index.asp?id=158 or phone us on 0800 328 4218 and we will send you a copy in the post.

For fitness to practise case studies, visit our website at [\[to follow\]](#).

How do I raise a concern?

If you need to tell us about concerns you have, you should fill in an employer referral form. You can download a referral form from www.hcpc-uk.org/complaints/raiseaconcern/howto or contact us on 0800 328 4218 and we will send you a copy in the post. There are two ways to send your filled-in form to us.

1. By post

Securely seal the signed form in an envelope, along with copies of the supporting documents, and send it to:

Fitness to Practise Department
 The Health and Care Professions Council
 184 Kennington Park Road
 London
 SE11 4BU.

You may want to consider using recorded post.

2. By email

Attach a scanned copy of the signed form along with electronic copies of the supporting documents, and email them to ftp@hcpc-uk.org.

If you decide not to use the employer referral form, we need the following information from you when you raise a concern. You can send this information to the postal or email address above.

Information about you (and our point of contact for the case, if this is not going to be you)	<ul style="list-style-type: none"> – Name – Role – Organisation – Correspondence address, phone number and email address
Information about the registrant	<ul style="list-style-type: none"> – Name – Profession – Registration number – Work address and home address (if you know it) – How long they have been employed by your organisation and in what roles – If they are registered with any other body
Information about your concern	<ul style="list-style-type: none"> – A brief summary of what happened and the circumstances leading to it – Where the event (or events) took place – The date and time period (or both) that the event (or events) took place
Information about witnesses	<ul style="list-style-type: none"> – Details of any witnesses and copies of their statements
Information about the action you have taken	<ul style="list-style-type: none"> – A brief summary of any internal investigation you have carried out

	<ul style="list-style-type: none"> – Details of any other organisation you have contacted about the matter (for example, another regulator or the police)
<p>Supporting documents (This will depend on the nature of the concern but we are likely to need everything you have considered when making the referral to us.)</p>	<ul style="list-style-type: none"> – Internal investigation reports, disciplinary and appeal documents – Correspondence between your organisation and the registrant – Relevant service-user records – If you are reporting that a registrant has been charged, the contact details of the relevant police force – If you are reporting a conviction or caution, a copy of a CRB check or a certificate of conviction or caution

Anything you send to us will be copied to the registrant you are referring to us so they can respond. If there is anything you would prefer we did not send to the registrant, you should tell us. However, if it is an important piece of evidence, we may have to send it to the registrant anyway. We will not share any information that might compromise a criminal investigation.

Any information you provide will be used as evidence in proceedings against the registrant. If the case goes as far as a hearing, the details may become public as hearings are usually held in public and the press regularly go to these hearings.

Compromise agreements

If you have entered a compromise agreement with the registrant you are referring, you should tell us. We do not need the details of the agreement, but just need to know that one exists. If you have a confidentiality clause in the compromise agreement, it will not prevent us from investigating the concerns about the registrant, nor does it prevent you or any witnesses from passing information about the registrant to us. When drafting the agreement you should make clear to the registrant that any confidentiality clause does not apply to information being passed to us.

How much of my time do you need?

The amount of time we will need from you if you raise a concern will depend on how complicated the case is. We are likely to need to ask for more information from you during the course of our investigation.

If the case goes forward to a final hearing, you or members of staff may need to meet with our solicitors to provide a witness statement. You may also have to come to the hearing and give evidence. This can sometimes involve an overnight stay if it takes place away from your home town. You can find more information about this in our brochure called 'Information for witnesses'. You can download this brochure from www.hcpc-uk.org/complaints/witnesses or phone us on 0800 328 4218 and we will send you a copy in the post.

The investigation process – what happens next?

(flow chart to be added shortly)

For more information about the investigation process, visit our website at www.hcpc-uk.org/complaints/employers/investigations.

The ‘Standard of acceptance’ explained

There is a modest and proportionate threshold that all concerns must meet before we can investigate them as a concern about a registrant’s fitness to practise. This threshold is known as the ‘Standard of acceptance’.

We consider each concern on its merits as to whether it meets the Standard of acceptance or not. We may make further enquiries to help us make this decision, for example, we may ask you or someone else for more information.

A concern meets the Standard of acceptance if:

- it is made in the **appropriate form**; and
- it provides **credible evidence** which suggests that the registrant’s **fitness to practise is impaired**.

Appropriate form

A concern is in the appropriate form if it:

- is received in writing;
- provides enough information to identify the registrant it is made about; and
- sets out the nature of the concern and the circumstances giving rise to it in enough detail for the registrant to be able to understand the concern and respond to it.

Our employer referral form and the information on **pages [to follow]** will help you in referring your concern in a form which will meet this requirement.

Credible evidence that the registrant’s fitness to practise is impaired

This requirement does not mean that you must prove your concern from the outset rather than the concern must be enough to cause a reasonable and objective person to consider it worthy of belief. The concern must also suggest that the registrant’s fitness to practise is impaired. This is a current test, meaning that there are concerns about a registrant’s current ability to practise safely and effectively.

This requirement is why we may not take any further action in relation to a concern you have satisfactorily dealt with at a local level or which relates to events which happened more than five years ago.

If we find that a concern does not meet the standard of acceptance, the case is closed. It does not form part of the registrant's formal HCPC record but is information which we may take into account if further concerns are raised about the registrant.

Our Standard of acceptance policy is a public document and you can download it from www.hcpc-uk.org/publications/policy or phone us on 0800 328 4218 and we will send you a copy in the post.

What can I expect from you?

If you raise a concern with us about a registrant, you can expect us to treat everyone involved fairly and explain what will happen at each stage. We will give you the details of a case manager who you can contact if you have any questions and who will keep you up to date with the progress of our investigation.

Role of the case manager

We allocate a case manager to each case. The allocated case manager may change during the course of the investigation. If this happens, we will tell you and you will always have a named contact. They are neutral and do not take the side of either the registrant or the person or organisation who makes us aware of the concerns. Their role is to manage the progress of the case through the process and to gather relevant information. They act as a contact for everyone involved in the case.

They cannot give legal advice but they can explain how the process works and what panels consider when making their decision.

How long will it take?

We understand that the investigation process can be stressful for the employer or manager who has raised the concern and the registrant involved, so we try to consider cases as quickly as we can.

We aim to:

- prepare the case, so that the registrant may respond to the allegations against them, within five months of the decision that the concern meets the standard of acceptance; and
- hold a final hearing within seven months of the Investigating Committee Panel's decision that there is a case to answer.

While these are our aims, the time a case takes to reach the end of the process can vary depending on the nature of the investigation we need to carry out and how complicated the issues are. As a result of this each stage of the process may take either a shorter or longer period of time.

Your case manager will keep you informed of the progress of the case, but if you have any questions about what is happening, or why it may be taking longer than our aims, you can contact them for an update.

What happens if a concern is raised about an employee?

We may receive information from members of the public or another source about one of your employees which may mean we need to ask you for information as their employer or manager. This may include the service-user records of the person who has complained or more information about a particular incident.

If you are a registrant yourself, you should co-operate with any investigation about the conduct or competence of others, or the care, treatment or other services provided to service users.

Article 25(1) of the Health and Social Work Professions Order 2001 gives us the power to make a person or organisation give us information or produce documents which appear relevant to fitness to practise allegations. There are some exceptions to this power, listed in the Article from paragraph (3) – (5). You can find a copy of the Order at www.hpc-uk.org/aboutus/legislation/orders.

This power overrides the Data Protection Act 1998 (under section 35(1) of that Act) and other data-protection safeguards, such as Caldicott Guardian arrangements.

If you have any concerns about providing information to us, you should speak to your case manager. They cannot give you legal advice but they will be able to explain why we are making the request. Or, you can arrange your own legal advice.

What can you tell me?

Fitness to practise investigations are private and we do not publicise the fact that we are investigating a registrant. However, if the Investigating Committee Panel decide there is a case to answer, we will tell you about the investigation as you are the registrant's employer or manager. We may also contact you about the investigation before this point if it is appropriate.

We issue an alerts list every month giving details of case outcomes and registrants who have had interim orders made against them. To receive these FTP alerts, please email us at ftp@hcpc-uk.org.

We also publish details of forthcoming hearings, four weeks before the date of the hearing, on www.hcpc-uk.org/complaints/hearings/index.asp?month=11&year=2014&EventType=H.

What can an employee do during an investigation?

Registrants can continue to practise while we investigate a case unless we have imposed an interim order preventing them from practising or placing restrictions on their practice. Registrants cannot remove themselves from our Register while there are fitness to practise proceedings outstanding against them.

Supporting your employee

We understand that employers and managers often want to provide guidance and support to employees when they are the subject of a fitness to practise investigation.

It may be helpful to suggest that the registrant gets advice from their union or professional body (if they are a member of either) or Citizens Advice, or to get independent legal advice. Other organisations listed on our website may be helpful [\[link to follow\]](#).

Employing a registrant who is the subject of a current fitness to practise investigation?

Being the subject of a fitness to practise investigation does not automatically make a registrant unsuitable for employment as registrants can continue to practise unless we have imposed an interim order preventing them from practising or placing restrictions on their practice. You can find out if a registrant has an interim order made against them by searching our online register at www.hcpc-uk.org/aboutregistration/theregister.

What happens if previous concerns have been raised about a registrant?

If a registrant has been suspended, they cannot work until that suspension order has been removed. If we have placed conditions on a registrant's registration, they can work but under restriction. In these cases, as their employer or manager, a registrant may ask for your help with their conditions. For example, they may only be able to work under supervision or with a chaperone, or they may need to provide a review hearing with references from senior colleagues.

Taking previous concerns into account

When considering whether there is a case to answer in relation to a concern about a registrant, the Investigating Committee Panel has the legal power to take into account any other similar concerns made against the registrant within the previous three years.

The purpose of this power is to make sure that a concern which has been dismissed because a case to answer could not be established can still be taken into account if another, similar concern is made against a registrant and it is relevant to do so. The previous concern will be taken into account as similar-fact evidence and will not be re-opened as a new investigation.

Useful information

You can find more information on our website or through the following methods.

Practice notes

We have published a number of practice notes which explain various parts of our fitness to practise process. You may find it useful to look at these documents. You can download our practice notes from www.hcpc-uk.org/publications/practicenotes, or phone us on 0800 328 4218 and we will send you copies in the post.

Other documents

We publish a brochure for registrants who have a fitness to practise concern raised against them, called 'What happens if a concern is raised about me?'. You can download this brochure from www.hcpc-uk.org/complaints/registrants, or phone us on 0800 328 4218 and we will send you a copy in the post.

DRAFT

Fitness to practise referral form for employers

This form is for employers who wish to notify the HCPC of a fitness to practise issue concerning an employee who is registered with the HCPC. You should only use this form if you are an employer referring a HCPC registrant.

Please read our brochure, *Information for employers and managers: The fitness to practise process*, before you complete this form. This sets out the HCPC's fitness to practise process and provides information on when employers should refer cases to the HCPC. This brochure can be found on our website at www.hcpc-uk.org/publications/brochures or can be obtained by contacting us on the number below.

To complete this form by hand:

Print the form and write your responses in the spaces provided in clear, legible handwriting. If you require more space, please continue on additional sheets and attach them to the form.

To complete this form electronically:

Save the form to your desktop before completing it.

Please provide as much information as you can as it will help us to deal with your referral as quickly as possible.

If you have any questions or need more information about referring a registrant to us, please telephone the Fitness to Practise Department on our freephone (in the UK) number: 0800 328 4218 or 020 7840 9814.

1. About you

Name	
Role	
Organisation Name	
Correspondence address	
Your telephone number	
Your email address	

Will you be our point of contact for this case? If not, please provide the contact details of the point of contact below:

Name	
Role	
Organisation Name (if different from above)	
Correspondence address (if different from above)	
Contact's telephone number	
Contact's email address	

2. About the registrant

Please provide as much information as possible about the registrant you are referring. If you are referring more than one registrant, please complete one form for each registrant.

Name				
Profession				
Registration number				
Work address				
Home address (if known)				
Is the person a locum?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If yes, please provide details of the locum agency which supplied them:				
Is the person registered with any other body?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If yes, please provide details:				
How long has this person been employed by your organisation and in which roles (please provide dates)?				

<p>During the person's employment with your organisation, have there been any concerns or complaints of a <u>similar nature</u>?</p>	<p>Yes</p>		<p>No</p>	
<p>If yes, please provide a summary below. Do not write 'see attached' – please provide a brief summary and continue on an additional sheet of paper if necessary.</p>				

3. Your concern

<p>On which date(s) or over what time period did the event(s) take place?</p>
<p>Where did the event(s) take place?</p>
<p>Please provide a brief summary of your concern:</p>

Do not write 'see attached' – please provide a brief summary and continue on an additional sheet of paper if necessary.

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4. Witnesses

Were there any witnesses to the event(s)?	Yes		No	
If yes, please provide their contact details and a brief description of what they witnessed and why they were present. Please attach copies of any witness statements and reports.				
Do not write 'see attached' – please provide a brief summary and continue on an additional sheet of paper if necessary.				

5. Yours actions

Has an internal investigation taken place?	Yes		No	
<p>If yes, what stage of the process has the case reached? Please provide a brief summary.</p> <p>Do not write 'see attached' – please provide a brief summary and continue on an additional sheet of paper if necessary.</p>				
Have you suspended, downgraded the status, or placed practice restrictions on the registrant?	Yes		No	
<p>If yes, please provide details:</p>				

If your internal investigation is still on-going, please keep us updated of the progress and advise us of the final outcome enclosing all relevant documentation.

Have you contacted another organisation about this matter? For example, the police, NHS Protect or the Disclosure and Barring Service.	Yes		No	
<p>If yes, please provide their contact details and a summary of the action, if any, they are taking. If you have contacted the police, please provide the name and contact details of the investigating officer.</p>				

Please keep us informed of the progress any on-going investigation that another organisation may be carrying out and advise us of the final outcome enclosing all relevant documentation.

6. Additional information

Please use the space below to provide any additional information that may help us. If you need further space, please continue on an additional sheet of paper.

Any further information?

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7. Supporting documentation

Please attach copies of documents or material which support your referral. Please use the checklist below to indicate what documentation you are sending to us and when. If the documentation you are sending is not included on the list below, please add the type of documentation to the list.

N.B Please send the documentation unredacted – please see guidance note.

Supporting documentation (copies)	Attached	To follow	Not applicable
Internal investigation report			
Correspondence between your organisation and the registrant			
Witness statements			
Relevant service user records			
Disciplinary documentation			
Appeal documentation			
Service user supervision records			
Capability records			
Related policies and procedures			
Relevant job descriptions and training records			
CRB document			
Conviction or caution certificate			
Other types are documents (please specify below)			

8. Declaration

- To the best of my knowledge, the information I have provided is accurate.
- I understand that to investigate this matter the HCPC will need to share my referral, and any information I provide relating to it, with the registrant concerned and may also need to share it with other relevant parties as appropriate.

Signed:	Date:
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9. Next steps

Thank you for completing this form. There are two ways to send the completed form to us.

1. By post: Securely seal the signed form in an envelope along with copies of the supporting documentation, and send (you may wish to consider using recorded post) it to:

Fitness to Practise Department
 The Health and Care Professions Council
 184 Kennington Park Road
 London
 SE11 4BU

2. By email: Attach a scanned copy of the signed form along with electronic copies of the supporting documentation, and email to ftp@hcpc-uk.org.

We will write to you to let you know that we have received your referral and that we are considering it. We will then keep you informed about what is happening.

If the nature of your referral falls outside the HCPC's remit, we will try and assist in putting you in contact with the appropriate body.

Guidance note –unredacted documents

As far as possible we request that you provide unredacted copies of documents to support your referral. We understand that these documents may include sensitive service user information and/or health records. We set out below our legal basis for requesting unredacted documents and how we will maintain their confidentiality.

Our legal basis for requesting unredacted documents

Article 25(1) of the Health and Social Work Professions Orders 2001 gives us the power to require an individual or an organisation to supply us information or to produce documents which appear relevant to the discharge of one of our functions (in this instance, information or documents relevant to fitness to practise allegations). There are exceptions to this power, please see footnoteⁱ.

This power overrides the Data Protection Act 1998 (by virtue of section 35(1) of that Act) and other data protection safeguards, such as Caldicott Guardian arrangements.

How we maintain the confidentiality of sensitive unredacted records

- We will redact sensitive information (for example, service users' personal details) before sending the documents to the registrant and/or third parties.
- The Investigating Committee Panel, which will determine whether the registrant has a "case to answer", meets in private.
- If the matter is referred for final hearing we will redact sensitive information from the bundle of documents supporting our case. Final hearing panels are also very aware of the need to maintain service users' confidentiality where appropriate and are empowered to go into private session if this is necessary to ensure confidentiality.

Any concerns?

If you have any concerns or queries about providing unredacted documents or the legal basis for providing them, please contact us. If you are making a referral, please contact us by email at ftp@hcpc-uk.org or to call us on +44 (0)20 7840 9814. If you have already made a referral and have been allocated a Case Manager, please contact them directly.

We can also request information from you using our statutory powers which may assist if you are unsure about what information you can provide to us.

ⁱ Article 25(3) – (5) of the Health and Social Work Professions Order 2001:

(3) Nothing in this article shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in paragraph (1) may, in exercising his functions under that paragraph, require that the information be put into a form which is not capable of identifying that individual.

(5) Paragraph (1) shall not apply in relation to the supplying of information or the production of any document which a person could not be compelled to supply or produce in civil proceedings in any court to which an appeal would lie from a decision a Practice Committee with regard to the person concerned.