

Council, 8 December 2016

Fitness to Practise Feedback Report

Executive summary and recommendations

Introduction

The Fitness to Practise Department proactively seeks feedback from key stakeholders on the operation and their experience of the fitness to practise process. Feedback is used to provide assurance that our processes and support arrangements are working as they should be, as well as identifying areas which may require improvement.

This report provides a summary of the feedback received from registrants, complainants, witnesses, panel members and representative bodies. It includes information on how we obtain feedback, the response rate, analysis of the findings from the received feedback and learning points. The report also reflects the activities that we have already taken or propose to explore in relation to the feedback as well as the feedback gathering process.

Decision

This paper is for information.

Background information

There is no additional background information.

Resource implications

None. Feedback is currently managed as a business as usual activity.

Financial implications

None.

Appendices

Appendix 1: Summary of feedback from stakeholders on the Fitness to Practise Process

Date of paper

16 November 2016

Summary of feedback from stakeholders on the Fitness to Practise process

1. Introduction

- 1.1. This report provides a summary of the feedback received on the operation of the fitness to practise (FTP) process from key stakeholders in the process. Stakeholders include:
 - registrants (who are the subject of fitness to practise proceedings);
 - complainants (individuals or organisations that raise an initial FTP concern);
 - witnesses;
 - panel members; and
 - organisations that represent registrants eg unions and professional bodies.
- 1.2. The purpose of seeking feedback from those who are involved in the FTP process or have an interest in the outcome is twofold. Firstly, to provide assurance that our processes are working as they should do and secondly to identify any potential areas for improvement.
- 1.3. This report outlines: the process of gathering feedback; the feedback received, the learning points that have been identified and the action that has been taken or is to be taken in response to the feedback or the process of gathering feedback.
- 1.4. In relation to registrants and complainants, the findings in this report reflect the period from 1 February to 30 September 2016 as this is when we started systematically collecting feedback from these groups. In relation to the witnesses and panel members, the findings in this report reflect the period from 1 October 2015 to 30 September 2016.
- 1.5. It should also be noted the Fitness to Practise Operations team coordinates the response to complaints received in relation to FTP decisions, process and service. These complaints are not part of this report as they are reported to the Council separately by the HCPC Service and Complaints Manager. However, if comments received through the feedback process are considered to amount

to a complaint they are managed in accordance with our complaints handling process. Both complaints and positive feedback are shared with the HCPC Service and Complaints Manager.

2. Process

Registrants and complainants

- 2.1. Gathering feedback from the registrants and complainants is managed by the Assurance & Development team (A&D) within the FTP Operations function. Following a successful pilot project in between January to April 2015 it was decided to routinely seek feedback from registrants and complainants who have been party to an FTP case. Cases which have recently been concluded at an Investigations Committee Panel (ICP) or Final Hearing are considered by an A&D Officer to determine which of the various parties should be sent the relevant feedback form. There are various circumstances where stakeholders are not sent the feedback form. They include any parties: identified as being particularly vulnerable; who have submitted a complaint or appeal, or who have been added to the unreasonable, unacceptable behaviour lists. We acknowledge that when a complainant has been a witness at a hearing, they might have completed a witness feedback form and the difference is explained. Registrants are also not contacted where they have been struck off.

Witnesses and Panel Members and the Legal Assessors

- 2.2. Gathering feedback from the witnesses and the panel members is managed by the Hearings Team. At the conclusion of a hearing the Hearings Officer (HO) will attach the feedback form to the outcome email to the witness and ask for feedback either by post or email using the dedicated witness feedback email address. The witnesses are given a hard copy of a witness feedback form by the HO. In addition to this, the copies of the witness feedback form are available in the witness waiting room in 405 Kennington Road. There is a box for completed forms in each witness room. We also publish the witness feedback form on the HCPC website and have a witness dedicated email address there. Returned witness feedback forms are reviewed by the Adjudication Manager and passed onto the HO for logging on a spreadsheet.
- 2.3. Panel members are handed a feedback form by a HO at the hearing. The Hearings Team also sends the panel members an electronic copy of the form for any ad-hock feedback. If a hearing adjourns or goes part heard, then the HO emails the Panel Members and the Legal Assessor requesting feedback and gives them a two week deadline for response.

Representative bodies

- 2.4. Gathering feedback from the representative bodies is primarily managed through a designated email address. This allows them to raise both logistical issues, as well as policy based concerns or suggestions for improvement. Key representatives from the Fitness to Practise department also meet with representatives of the representative bodies twice a year. The feedback received between these meetings informs the agenda for the meetings.

3. Response Rate

Complainants

- 3.1. In the period between 1 February to 30 September 2016, of the 81 forms sent to complainants, 34 responses were received, a response rate of 42%. This is similar to the response rate during the pilot period which was 44%.

Registrants

- 3.2. In the same period, of the 156 feedback forms sent, 38 responses were received, a response rate of 24% (during the pilot period this response rate was 32%). There was a 33% response rate for the feedback forms sent to registrants following a closure decision by an Investigating Committee Panel (ICP) (39% during the pilot) and a 8% response rate for the feedback forms sent to registrants following a final hearing decision (19% during a pilot).
- 3.3. There was a higher response rate from complainants than registrants in relation to feedback forms sent after an ICP closure decisions. The response rate in relation to feedback forms sent following final hearing decisions was higher from registrants.
- 3.4. In terms of method of delivery, the response rate was higher for feedback forms sent by hard copy post than email. This may be as a self-addressed, pre-paid envelope was sent with the hard copy feedback forms.

Witnesses

- 3.5. Feedback forms are only sent to the witnesses for final hearings (they are sent if hearing adjourns part heard or concludes). In the reporting period - 1 October 2015 to 30 September 2016 - out of 812 outcome emails from 464 final hearings, we received 37 completed forms. A response rate of 5%.

Panel Members

- 3.6. In the reporting period - 1 October 2015 to 30 September 2016 - out of 819 approximate hearing events, we logged 78 completed forms from panel members, a response rate of approximately 10%.

Representative Bodies

- 3.7. We received a small number of emails from the representative bodies in the period 1 October 2015 to 30 September 2016 on specific issues. We also had two representative bodies meetings in this period, on 3 May 2016 and 1 November 2016. The recent meeting of representative bodies included representatives from Association of Educational Psychologists, British Association of Social Workers, Royal College of Speech and Language Therapists, Society of Chiropractors and Podiatrists, UNISON and Unite. A range of issues relating to processes, communication and support as well as more strategic regulatory topics such as the proposed establishment of the new regulatory body for the social workers were discussed. We are considering how to extend these meetings to other organisations representing different professions on our Register.

4. Feedback findings

Complainants

Raising a concern

- 4.1. The feedback form contains seven questions. The first four are about a process of raising a concern and the last three are about our communication and service. Of the 33 responses, the majority (39%) found out about the fitness to practise process through the HCPC website, with 18% through a health or care professional or organisation. 15% had raised a concern with the HCPC before. The majority of complainant respondents found it either very easy or easy to find out about the fitness to practise process. 82% of respondents completed a Reporting a fitness to practise concern form. The majority found the form either very easy (25%) or easy (32%) to complete. Only one respondent found it 'not so easy', no respondents found it 'not at all easy'.

Communications and service

- 4.2. Respondents were asked whether they received an acknowledgment to their initial concern within five working days. Whilst the majority of cases met the service standard in this regard, a small proportion (6% two respondents) stated that they did not. For general correspondence, 72% of complainant respondents either strongly agreed or agreed that they had received responses within five working days, with 9% (three respondents) disagreeing

with this statement. 51% of complainant respondents either strongly agreed or agreed that they were provided with regular updates. However, 18% of complainant respondents either disagreed or strongly disagreed with this statement.

- 4.3. The majority (70%) of complainant respondents were able to contact a member of staff if they wanted to discuss their concern. One person responded that they were not and 27% responded 'Not Applicable'. The clarity and manner of communications received positive feedback, with 82% of complainant respondents either strongly agreeing or agreeing that they were communicated with in a courteous and polite manner. The rest were neutral and no respondents disagreed. Though 76% responded positively on the clarity of general correspondence, 12% of respondents disagreed or strongly disagreed that they were provided clear information about the fitness to practise process. The rest of the respondents were neutral.

Length of time

- 4.4. Less than half of complainant respondents either strongly agreed or agreed that they were satisfied with the length of time it took to deal with their concern. 18% either disagreed or strongly disagreed and 36% were neutral. One complainant expressed dissatisfaction at the length of time for the process in their comments, where their case, involving three registrants, took one year to complete.

Overall satisfaction

- 4.5. Overall satisfaction was broadly positive. 60% of complainant respondents either strongly agreed or agreed they were satisfied with the service they had received. 9% disagreed or strongly disagreed and 31% were neutral. Respondents were given an opportunity to provide free text feedback about the service they had received. 10 out of 34 respondents provided free text comments. Some took the opportunity to express dissatisfaction with the outcome of the case, or with the way the investigation was conducted. Seven out of ten responses were negative in nature but three respondents took the opportunity to comment positively on the service received and the clarity of the process.

Registrants

Communications and service

- 4.6. The feedback forms sent to the registrants post ICP and after the final hearing both contain seven questions about our communication and service and one free text question. The final hearing form in addition contains questions about

our service at the hearing and feedback on our external legal provider.

- 4.7. 70% of registrant respondents strongly agreed or agreed that they had received responses to their correspondence within five working days, with 17% disagreeing or strongly disagreeing with this statement. 54% of registrant respondents either strongly agreed or agreed that they were provided with regular updates. 32% either disagreed or strongly disagreed, suggesting further improvement could be made in this area.
- 4.8. Positively, 81% of registrant respondents either strongly agreed or agreed that they were communicated with in a courteous and polite manner. For the four respondents that disagreed (all of which concerned ICP rather than final hearing), three provided comments, but these concerned a perceived lack of communication across the timeframe rather than any specific examples of impolite or discourteous service. 84% of registrant respondents (post ICP and final hearings) either agreed or strongly agreed that they were provided clear information about the FTP process, and 68% either agreed or strongly agreed that they were provided clear responses to their correspondence. This varies slightly compared to the complainants' responses, where the clarity of information about the FTP process was marked less positively than the clarity of general communications, though this may be explained by the fact that registrants will largely be more familiar with the HCPC and its processes.

Length of time

- 4.9. 36% of registrant respondents for cases concluded at ICP strongly agreed or agreed that they were satisfied with the length of time it took to deal with the concern against them. 48% either disagreed or strongly disagreed and 15% were neutral. The majority of registrant respondents for cases concluded at final hearing were neutral on the issue of the length of time it took to deal with the concern against them. One respondent strongly disagreed and commented on the length of time (two and a half years) and its effect on them as the main reason for their overall dissatisfaction with the process. For registrant respondents (ICP) nearly half responded negatively. There were no positive responses received for registrant respondents having their cases concluded at final hearing but only four comments were received, three were neutral and one negative.

Service at the hearing

- 4.10. Only two registrant respondents responded to the questions about the service received when attending a hearing. They both appeared to have a positive experience, strongly agreeing they were greeted professionally and directed appropriately, that the hearings officer was available to answer their questions, that they were informed about what was happening and that they were communicated to in a courteous and polite manner.

Feedback received about our external legal services provider

- 4.11. There was one response in relation to the service provided our external legal services provider. One registrant respondent commented that they did not receive documents from them when requested.

Overall satisfaction

- 4.12. Feedback relating to overall satisfaction was broadly positive. On the basis of the combined ICP and final hearing feedback, 58% of registrant respondents either strongly agreed or agreed they were satisfied with the service they had received. 19% disagreed or strongly disagreed. 23% were neutral. There were no negative responses for this question in relation to the final hearing responses.
- 4.13. Registrants were also given an opportunity to provide free text feedback about the service they had received. Key areas were dissatisfaction with the length of time taken to conclude the case, and the consistency of communication received over longer time periods. Three registrants also commented on the effect the process had on them, stating that they believed more support should be offered. There were general comments as to the process, as well as some more specific comments on particular elements of the process, including:
- Time period given to respond to allegations being too short;
 - ICP meetings should be 'open' ;
 - Registrant names should not be advertised on the website.

Witnesses

Witness feedback about their experience before the hearing

- 4.14. The Witness Feedback Form includes two sets of questions relating to witness experience of our service before and at the hearing and free text questions at the end. Before the hearing witnesses should be provided with an explanation of the witness role after giving the statement as well as being able to contact the HCPC staff easily and receive a good level of communication and support in relation to any concerns the witnesses may have, as well as providing adequate travel and accommodation arrangements. Approximately 80% of the witness respondents strongly agreed or agreed that we provided the required level of standard in the above areas.
- 4.15. There were very positive responses in relation to the witnesses being informed about what would happen next after providing a statement and that the HCPC correspondence was clear and helpful (84% both). 67% of the witnesses

strongly agreed or agreed that they were happy with travel and accommodation arrangements, while 8% of the witnesses said that they were not (3 responses). In relation to the question about the witnesses speaking to the HO by telephone in advance of the hearing, 49% agreed that this has taken place and 35% disagreed. However, the majority of witnesses agreed that the information they received addressed any queries or concerns they have had.

Witness feedback about their experience at the hearing

- 4.16. In relation to the witness experience at the hearing, the service standards we seek feedback on include the way the witnesses are first greeted and introduced to the hearing venue, receiving a briefing from the HCPC representative, being kept informed and supported at the hearing process, feeling prepared for giving evidence or satisfaction with the witness waiting area. The responses were largely positive where between 65% to 81% were happy with the service. In respect to the question whether the witnesses were shown a hearing room before giving evidence 27% agreed, 49% disagreed with the remainder not expressing a view. 16% (six responses) of the witnesses did not consider that they had been kept informed about what was happening during the hearing while 68% agreed that they were. 11% of witnesses did not think that the HO answered any questions they have had (four responses) or that they were greeted professionally, while about 80% were happy with our service in these areas. The remaining part did not express their view. While 16% (six responses) of the witnesses felt they were not prepared for giving evidence, 68% felt they were prepared (26 responses), 16% were neutral. The majority of respondents did not consider the question relating to special requirements was applicable to them. However, of those who indicated special requirements was applicable 19% were satisfied (seven responses) with the arrangements and 8% were not (three responses).
- 4.17. In the free text comments respondents reiterated the above findings by stating that they were happy with the support from the HCPC. There were positive comments about the venue and the facilities. In respect to the special requirements, some witnesses commented that they were not aware of being able to request special provisions. Two witnesses mentioned that they did not find the experience helpful, that they were not happy about the delay at the hearing, about their waiting time, or the length of travel to the hearing venue because of their mobility problems. Having the same HO throughout the hearing would have been helpful was suggested.

Panel Members

Reviewing hearing participant performance

- 4.18. The Hearing Evaluation and Feedback Form, which is given to panel members, includes a section on hearing participant feedback, strategic and policy issues, exceptional circumstances and a section on how we can provide additional support. All of the sections, apart from the first section, are in the form of free text. It is a common practice that the panel members provide feedback on selected areas rather than on all of the areas. Some comments addressed more than one area, therefore the number of responses in relation to each area will not be the same as the number of returned forms.
- 4.19. The first section of the feedback form invites the panellists to provide feedback on a number of key participants to the hearing. Panellists are asked to rate the performance of key participants (Panel Chair, Legal Assessor, Lay Panel member, registrant panel member, hearing officer and presenting officer). For the reporting period – 1 October 2015 to 30 September 2016 – overall the performance of key participants was rated as either 'Excellent' or 'Good'. There were two instances of where the performance of the Legal Assessor was rated as 'Poor'. However, it was note that there is a general trend of not providing performance ratings, particularly in relation to Panel Chairs.

Strategic or procedural issues

- 4.20. In terms of strategic or procedural issues the most common reason the panel members provided feedback about were problems with hearing papers. These are frequently cited as having affected the smooth running of a hearing and often include issues such as the bundles arriving late, missing or illegible documents and inappropriate redactions. Two responses referred to unnecessarily large bundles which were in the region of 5000 pages.
- 4.21. Another frequently mentioned issue was the preparation of the case by the HCPC and this included issues with the drafting of the allegation such as undercharging, insufficient particularisation and problems with linking evidence to particulars. Panels also used this section to make recommendations or ask questions about the implementation of witness or registrant support mechanisms in place at the HCPC.
- 4.22. Where cases were adjourned part heard or where risk of adjournment was high, the panels suggested that insufficient time had been scheduled to conclude case, there was lack of appropriate equipment (for example telephone conference facilities) or the HCPC was not sufficiently prepared to manage a hearing at an external venue.

Exceptional issues leading to adjournment

- 4.23. The next section of the form asks the panellist to provide an exception report if the hearing adjourned. It is apparent that this section is not always completed when a hearing is adjourned and panels have also been completing this section in order to provide feedback about issues beyond the scope of their hearing which may be better placed in the strategic issues category.
- 4.24. The following issues were identified in the exception reports:
- Preliminary issues not resolved in advance (registrant correspondence not actioned/special measures not in place/ alternative methods of participating in the hearing not offered);
 - Unrepresented registrant/anxious witness causing delays;
 - Time listed for the hearing being insufficient;
 - Extensive documentation provided at late notice.
 - Not agreeing a consent order with the registrant in writing in advance of the hearing.
- 4.25. Further feedback was received from Panels relating to substantive review hearings indicating some concerns about notices of hearings not setting out the power of the panels clearly. These concerns were also considered when the Adjudications team updated notices for hearings as a result of the Burrows case law. The formatting of the notice of a Substantive Review hearing has therefore been updated to improve its clarity.

Representative bodies

- 4.26. A number of themes mentioned in the feedback from the groups mentioned above have also been by the representative bodies. Themes included acknowledging communication, encouraging support and identification of special requirements early in the process, and to facilitate greater engagement or attendance from the registrants. Other points raised included holding hearings at venues closer to where the registrant lives, the length time registrants have to respond to allegations and our standard directions for serving documents. We will continue to take these issues into consideration whilst continuing to ensure an appropriate balance between the registrants' interests, the length of time to complete case, public interest and proportionate use of the HCPC resources.
- 4.27. Further feedback areas included comments around quality and volume of the bundles and consistency of redactions. There was expression of support towards using alternative ways of participating in the hearing for example by using skype at the proceedings or electronic bundle.

5. Learning points identified from the feedback analysis

- 5.1. The feedback received is largely positive and continues to be a very helpful tool in our continuing assurance and development work. We are able to identify common areas for potential improvement mentioned by all groups. The feedback indicates that further improvements could be made to:
- the length of time to progress the case
 - regular updates and consistent communication, particularly when there is a delay
 - awareness about the support available to accommodate special requirements
 - preparation of case documentation and the early identification and resolution of potential difficulties
 - the response rate and engagement in the feedback process.
- 5.2. Many of the issues raised through the feedback process confirm the areas for improvement already identified through our ongoing assurance and service improvement activities. Details of current and future activities which relate to the issues raised in the feedback is outlined below.

Length of time to progress cases

- 5.3. Ensuring cases are progressed in a timely manner is a core focus of the FTP department. One of the objectives of the recent realignment of the FTP functions is to further support case progression as well as the quality of service that all stakeholders who have a stake in the FTP process receive. Further details regarding the activities being undertaken in relation to case progression can be found in the paper responding to the PSA Annual Performance Review 2015/2016 presented to Council in December 2016.

Communications and response times

- 5.4. We have been continuously taking steps to make improvements to our service. For example, service standards have recently been reviewed in light of the realignment project. Customer Service Excellence training has also recently been delivered for all FTP employees. We have made amendments to some standard letter templates as and when pertinent feedback was received. In addition as part of the review of the FTP webpages, the member of the public referral form, the member of the public information brochure ('How to raise a concern'), and the registrant information brochure ('What do I do if a concern is raised about me') feedback received from complainants and registrants was taken into account and incorporated in the revised versions.

- 5.5. We will continue to feed back the findings to the Operational Team Managers and will consider if any revisions to operational guidance, practice notes and policies may be required. These areas will also be supported by further process review and definition of a range of responsibilities within new specialised teams, following FTP realignment.
- 5.6. In light of feedback from the representative bodies, we will explore the possibility of automatic acknowledgement of correspondence as well as the extension of Skype for business facilities and electronic bundle submission.
- 5.7. Feedback from witnesses will be fed back into team training sessions as well as informing the ongoing review of standard correspondence to enhance the communication and support before the hearing.
- 5.8. Several panel members raised concerns about the guidance given by HCPC staff to registrants in advance of hearings, and as a result of this the Adjudications Team is reviewing how queries from registrants are handled and escalated to ensure the appropriate team or manager responds, particularly in relation to attendance, special measures or financial matters.
- 5.9. As part of the project to establish The Health and Care Professions Tribunal Service (HCPTS) we are reviewing our correspondence to hearing participants. This activity will consider what further steps can be taken to make parties aware of the possibility to inform us of their special requirements or providing further opportunities to make them feel better prepared and supported to provide evidence.
- 5.10. Issues that affect the smooth running of a hearing will continue to be fed back to our external legal services provider on a case by case basis and via the monthly service level agreement meetings.
- 5.11. We will continue to monitor the witness satisfaction following the move of the adjudication function to the new venue at 405 Kennington Road in January 2016 and the implementation of the realigned FTP structure.

Response rate and engagement

- 5.12. We will consider potential improvements to the process of sending our feedback form. Currently the process of assessing whether it is appropriate to send out feedback forms in relation to a case is time consuming as this is done by an A&D Officer who has no prior knowledge of the case. We will consider whether the Case Manager can assist with the assessment.

- 5.13. We are will also look into whether there are better ways of separating feedback relating to ICP or final hearing decision from feedback relating to service. A respondent's dissatisfaction with the decision can often have a negative impact on how they view their whole experience of the FTP process.
- 5.14. In view of the relatively low response rate from the panel members, we have surveyed Panel Chairs survey to establish the reasons for the low response rate and explore options for more engagement. The results of the survey indicate that the feedback was only provided when there was a need to report some exceptional circumstances, either positive or negative. The respondents also pointed out potential for improvement in the format and content of the current feedback form.
- 5.15. We also intend to review the witness feedback form to ensure all questions remain relevant with a view to improving the current relatively low response rate.
- 5.16. We are also working with communications team colleagues to extend the membership of the FTP representative bodies to ensure more professions are included.