

Council

Minutes of the 103rd meeting of the Health and Care Professions Council as follows:-

Date: Wednesday 10 February 2016

Time: 2pm

Venue: The Council Chamber, Health and Care Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU

Present: Elaine Buckley (Chair)
Stephen Cohen
Maureen Drake
Eileen Mullan
Joanna Mussen
Robert Templeton
Graham Towl
Joy Tweed
Nicola Wood
Stephen Wordsworth

In attendance:

Kayleigh Birtwistle, Quality Compliance Auditor (Items 1-10)
Laura Coffey, Investigations Manager
Guy Gaskins, Director of Information Technology
Andy Gillies, Director of Finance
Abigail Gorringer, Director of Education
Michael Guthrie, Director of Policy and Standards
Kelly Holder, Director of Fitness to Practise
Imran Inamdar, Case Support Manager (Items 1-10)
Jacqueline Ladds, Director of Communications
Louise Lake, Director of Council and Committee Services
Greg Ross-Sampson, Director of Operations
Marc Seale, Chief Executive and Registrar
Sarita Wilson, Head of FtP Service Improvement (Items 11ii-11iii)

Public Agenda – Part 1

Item 1.15/279 Chair's welcome and introduction

- 1.1. The Chair welcomed Council members and those seated in the public gallery to the 103rd meeting of Council.

Item 2.15/280 Apologies for absence

- 2.1 Apologies were received from Richard Kennett and Sonya Lam.

Item 3.15/281 Approval of Agenda

- 3.1 The Council approved the agenda.

Item 4.15/282 Declaration of Members' interests

- 4.1 Nicola Wood declared an interest as a non-executive Director of the Board of the Information Commissioner's Office.

Item 5.15/283 Minutes of the Council meeting of 2 and 3 December 2015

- 5.1 The Council considered the minutes of the 102nd meeting of the Health and Care Professions Council.
- 5.2 The Council noted the corrections to the minutes of the meeting held on 14th October 2015 and it was further noted that Nicola Wood had submitted apologies for that meeting.
- 5.3 The Council agreed the minutes subject to the incorporation of the amendment detailed under 5.2.

Item 6.15/284 Matters arising

- 6.1 The Council noted those matters arising from the meetings held on 02 and 03 December 2015.
- 6.2 The Council further noted that the expenses policies were reviewed annually and the next review would be the opportunity to consider the determination of class of travel by air.
- 6.3 The Council noted the report.

Item 7.15/285 Chair's report

7.1 The Council received a report from the Chair.

7.2 During discussion, the following points were made:-

- The meetings with the professional bodies continued to be constructive and demonstrated the high regard in which HCPC was held;
- The 'Meet the HCPC' event in Dalton-in-Furness was successful and the attendees were grateful that the HCPC had held the event in the locality;
- The Chair had held informal meetings with the Chair of the GMC and discussions were in relation to appraisals of Council members, the HCPC Tribunal Service and some liaison work had been established in relation to revalidation. The suggestion had been made that it would be useful to have a joint meeting of the Councils although the mutual benefits were still be considered;
- The Council noted the background and purpose of the annual EMT budget away day which had been held at the end of January.

7.3 The Council noted the report.

Item 8.15/286 Chief Executive's report

8.1 The Council received a report from the Chief Executive.

8.2 The Council noted the report.

Item 9. 15/287 Professional Accountability Bill – The next steps

9.1 The Council received a report from the Executive.

9.2 The Council were updated on the UK Government's proposals to reform the legislation of the nine UK statutory regulators of health and care professionals by way of possible primary legislation in the form of an Act of Parliament.

9.3 There was discussion about whether a more proactive approach should be taken in terms of being more assertive and articulating what we would and wouldn't like to see within the legislation. The Council noted how the HCPC had engaged with the Department of Health previously when legislation was being considered and agreed that guidance should be taken from the Chief Executive about how best to approach this.

9.4 The Council considered the risks as outlined on page six of the paper and noted that it was always necessary to ensure that plans were put in place for all eventualities in case legislation did not meet with the timetable and therefore did not come to fruition.

9.5 The Council noted the report.

Item 10. 15/288 New regulatory body for social work

10.1 The Council received a report from the Executive.

10.2 The Council were updated on developments following the announcement on 14 January 2016 by Rt. Hon. Nicky Morgan MP, Secretary of State for Education that a “new regulatory body for social work” would be setup.

10.3 During discussion, the following points were made:-

- The Council were apprised of the background to the regulation of social work starting with the establishment of the General Social Care Council in 2001;
- The Council raised some important questions which they felt needed to be addressed at the next meeting to be held with Department of Health officials:-
 - Why can HCPC’s legislation not be amended to accommodate the changes that the government is seeking to introduce?
 - What evidence does the government have to suggest that the regulation of social workers in England by the HCPC is not working? Where have HCPC lowered standards or not raised standards for social workers in England?
 - How can HCPC be involved in establishing a new regulator and what is the proposed process?
 - Where do social care workers sit within these proposals?
- The Council congratulated the Executive on how the situation was handled on the day of the announcement;
- No response had yet been received to our letter to the PSA dated 20 January 2016;
- It was important to note that as a result of this announcement, it may be necessary to increase the registration fees. Some financial analysis was being carried out. However, any costs associated with the transfer of the regulation of social workers to another body would not be borne by our registrants;

10.4 The Council noted the report, agreed the questions that should be raised with the Department of Health and agreed that the Chief Executive should continue to keep the Council updated on the situation.

Item 11i. 15/289 Policy and Standards Departmental Update

- 11i.1 The Council received a report from the Executive.
- 11i.2 The Council noted the main activities of the Policy and Standards department.
- 11i.3 During the discussion the following points were made:-
- That whilst there was an underspend in relation to research, this would in all likelihood reduce by the end of the financial year. The final invoice would be paid once we were completely happy with the standard of what had been delivered;
 - It was important to ensure that any research brief was well written (to ensure that expectations were set accordingly) and that research was managed closely. For that reason, the policy team would be undertaking some training on managing research projects.
- 11i.4 The Council noted the contents of the report.

Item 11ii. 15/290 Regulation of further professions / occupations

- 11ii.1 The Council received a report from the Executive.
- 11ii.2 The Council noted on 17 December 2015, a ministerial statement by Ben Gummer was published which indicated the present Government's thinking on professional regulation. The paper aimed to bring together relevant background material about government policy over time, and the HCPC's thinking and approach to date, about the extension of regulation to further professions / occupations.
- 11ii.3 During the discussion the following points were made:-
- Concern was expressed that the list under paragraph 2.4 of the paper which sets out the recommendation for the regulation of certain groups, infers that we don't think any other groups should be regulated. It was important to make it clear that we did not believe the list to be exhaustive;
 - The suggestion was made that the list be replaced with a statement that we would consider the regulation of any professional group upon receipt of an application;
 - Council noted their role in terms of recommending new professions for regulation as set out in legislation;

- The suggestion was made that it was clearly articulated that those groups on the list under paragraph 2.4 were groups that had made an application.

11ii.4 The Council noted the contents of the report and agreed that a position statement should be drawn up in relation to the regulation of new professions and this would be considered at a future meeting of Council.

Item 11.iii. 15/291 A report on the investigation of the GDC's handling of a whistleblower's disclosure about the Investigating Committee

11iii.1 The Council received a report from the Executive.

11iii.2 The Council noted that on 21 December 2015, the PSA published its report into the GDC's handling of a whistleblowing disclosure. The report concludes that: '...the other eight health and care professional regulators could learn from the outcomes of this investigation.' The paper identified actions for the Executive. These actions include reviewing the HCPC's whistleblowing policies for partners and employees.

11iii.3 During the discussion the following points were made:-

- This may be a good opportunity to introduce 'exit interviews' for Partners since anecdotally, panel members were leaving the GDC if they felt uncomfortable about something rather than dealing with it;
- It was noted that whilst it may not be appropriate for formal 'exit interviews', we could build upon the existing 'leaving questionnaires';
- The Council noted the mechanisms in place to give Council assurance about the activity undertaken by partners. This assurance would be enhanced by the future development of the tribunal service;
- The Council noted that the report on Investigating Committee Panel outcomes that is considered annually by Council would be shared with partners through their newsletter and any useful learning outcomes built into future training;
- The suggestion was made that the Council considered 'whistleblowing' in greater depth.

11iii.4 The Council agreed the actions outlined in section three.
At 15:40, the Council took a short break and resumed at 16:00.

Item 12. 15/292 Education Departmental Update

12.1 The Council received a report from the Executive.

- 12.2 The Council noted the main activities of the Education department in November and December. This included statistical information and key work undertaken. It also included a nine month review of the 2015-2016 work plan.
- 12.3 The Council noted that the report on Social Work Education had still been published in January 2016, in spite of government's recent announcement to create a new regulator for social work.
- 12.4 The Council noted the contents of the report.

Item 13. 15/293 Finance Departmental Update

- 13.1 The Council received a report from the Executive.
- 13.2 The Council noted the main activities of the Finance department since December. It included statistical information and highlighted key work undertaken.
- 13.3 During the discussion the following points were made:-
- The Council noted that the deficit projected as part of the month 9 reforecast was much more favourable than the original budgeted deficit. This was primarily as a result of an increase in income from international scrutiny fees;
 - That the investment income of approximately £150k was not included within the original budget as this was effectively a contingency;
 - The projected deficit of £314k was worst case scenario and did not include the figure for the revaluation of the building;
 - The Council noted the new approach by the NAO audit team who came into HCPC in December and February and then a shorter visit at year end;
 - The Council noted that the published version of the 'Standards of Conduct, Performance and Ethics' had gone to every registrant. The reason was that there were some fundamental additions to the document including 'duty of candour' and social media. The decision to do so had been discussed and agreed at Council in December;
 - The Council noted the update in relation to staffing within the Finance Directorate.
- 13.4 The Council noted the contents of the report.

Item 14.i. 15/294 Secretariat Departmental Update

- 14.i.1 The Council received a report from the Executive.
- 14.i.2 The Council noted the main activities of the Secretariat department including the maternity cover plans to start in early March.
- 14.i.3 The Council noted the contents of the report.

Item 14.ii. 15/295 Council member appraisal process

- 14.ii.1 The Council received a report from the Executive.
- 14.ii.2 The Council noted the Council Member performance review process had been updated following discussion at the recent Council member training day.
- 14.ii.3 The Council noted that whilst it had been agreed that 360 degree appraisals would take place every other year, the timings of when these would take place still needed to be looked into.
- 14.ii.4 The Council approved the revised process.

Item 14iii.15/296 Secretary to Council

- 14.iii.1 The Council received a report from the Executive.
- 14.iii.2 The Council noted that Kelly Holder will act as Secretary to Council while Louise Lake is on maternity leave. It should be noted that this is for the purposes of the Council meetings only. Whilst Kelly will be assuming some of the other responsibilities of the post, she will not be covering the post in its entirety.
- 14.iii.3 The Council agreed the appointment of Kelly Holder as Secretary to Council.

Item 14iv.15/296 Committee appointments

- 14.iv.1 The Council received a report from the Executive.
- 14.iv.2 The Council noted that Eileen Mullan has been recommended for appointment to the Audit Committee and Maureen Drake for appointment to the Education and Training Committee.
- 14.iv.3 The Council agreed the recommendations.

Item 15. 15/297 Information Technology Departmental Update

- 15.1 The Council received a report from the Executive.
- 15.2 The Council noted the main activities of the IT department.
- 15.3 The Council noted the detail of the recent 'outages' and noted the ongoing work to mitigate against these in future.
- 15.4 The Council noted the contents of the report.

Item 16. 15/298 Any other business

- 16.1 There were no additional items for consideration that day.

Chair:

Date:

Draft

Council

Minutes of the 103rd meeting of the Health and Care Professions Council as follows:-

Date: Thursday 11 February 2016

Time: 10am

Venue: The Council Chamber, Health and Care Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU

Present: Elaine Buckley (Chair)
Stephen Cohen
Maureen Drake
Sonya Lam
Eileen Mullan
Joanna Mussen
Robert Templeton
Joy Tweed
Nicola Wood
Stephen Wordsworth

In attendance:

Laura Coffey, Investigations Manager (Items 1-10)
Guy Gaskins, Director of Information Technology
Teresa Haskins, Director of HR
Kelly Holder, Director of Fitness to Practise
Imran Inamdar, Case Support Manager (Items 1-10)
Jonathan Jones, Stakeholder Manager
Jacqueline Ladds, Director of Communications
Louise Lake, Director of Council and Committee Services
Zoe Maguire, Head of Adjudications
Fiona Palmer, Partner Manager
Greg Ross-Sampson, Director of Operations
Marc Seale, Chief Executive and Registrar
Eve Seall, Head of Case management
Sarita Wilson, Head of Service Improvement, FtP

Public Agenda – Part 2

Item 1.15/299 Chair's welcome and introduction

- 1.1 The Chair welcomed Council members and those seated in the public gallery to the 103rd meeting of Council.

Item 2.15/300 Apologies for absence

- 2.1 Apologies were received from Richard Kennett.

Item 3.15/301 Approval of Agenda

- 3.1 The Council approved the agenda.

Item 4.15/302 Declaration of Members' interests

- 4.1 Nicola Wood declared an interest as a non-executive Director of the Board of the Information Commissioner's Office.

Item 5.15/303 HR Departmental Update

- 5.1 The Council received a report from the Executive.
- 5.2 The Council noted the activities of the HR department.
- 5.3 During discussion the following points were made:-
- Consideration needed to be given to the HR implications of the recent government announcement that social workers in England would be regulated by a new regulator;
 - With reference to the figures on page 10 of the report, it was noted that it would be useful to see a breakdown of compulsory leavers and the number of those which were being performance managed. It was noted that this would be more appropriate within an annual update rather than the monthly update;
 - In response to a query about the role of the Remuneration Committee, the Council agreed that the Committee should consider a paper in relation to their terms of reference. Since the Remuneration Committee is a non-statutory Committee, should they wish to make any amendments to their terms of reference, this would need to be done by the Council;

- The training for Council on Equality and Diversity was in hand. It was important to ensure that the new provider was able to adapt their training to suit the needs of Council members;
- That the numbers of partners being trained may look low but this figure was dependent upon the number of new partners;
- Recruitment in all areas was progressing well although particular difficulties were being experienced in relation to Finance and IT specialists.

5.4 The Council noted the report.

Item 6. 15/304 Fitness to Practise Departmental Update

6.1 The Council received a report from the Executive.

6.2 The Council noted the main activities of the Fitness to Practise department in December 2015. It includes statistical information, including length of time data, for the period April to December 2015.

6.3 During the discussion the following points were made:-

- In response to whether there was flexibility within the FtP team to reallocate resources as appropriate, the Council noted that the case manager role was currently being reviewed to ensure a level of flexibility. Furthermore, scheduling resources would be considered to ensure they were at an appropriate level;
- The Council noted those mechanisms in place to ensure the physical and emotional wellbeing of the FtP employees when dealing with difficult cases;
- There was a brief discussion in relation to the low number of complaints that were raised by colleagues. It was noted that colleagues may make more complaints but these come up through the employer and so are categorised accordingly. The Council noted that this issue could be addressed by the new 'Standards of Conduct, performance and ethics.' In addition, through the events put on by the HCPC, the message was being reinforced in relation to raising a complaint about a colleague if there were concerns. There were also mechanisms within the NHS to facilitate this;
- Morale had been boosted for those employees working in the new accommodation at 405 Kennington road;
- The Registration appeals function had now transferred over to the Registration Team;

- The number of complaints relating to FtP cases were generally linked to the number of FtP cases that had been closed pre-investigating Committee stage;
- The Council noted the cyclical nature of some of the FtP Department's work, e.g. Health and Character cases.

6.4 The Council discussed and noted the report.

Item 7. 15/305 Independence in Adjudication

7.1 The Council received a report from the Executive.

7.2 The Council noted the operational and governance arrangements for the new tribunal service.

7.3 During the discussion the following points were made:-

- The Council noted that the Executive reporting arrangements for the Tribunal Service were still to be determined and would be considered by Council in due course;
- The Council requested that any paper for consideration in relation to the Tribunal Service should also consider those options that were discounted and the reasons for this;
- The next paper due to be submitted to Council in May needed to include the risks and financial implications of establishing an independent tribunal service;
- Other than the GMC, no other UK regulator is moving towards an independent tribunal service arrangement. It was noted that it was not known whether the GMC had evaluated the benefits of a move to this arrangement.

7.4 The Council discussed and noted the contents of the paper.

Item 8. 15/306 Mediation Pilot

8.1 The Council received a report from the Executive.

8.2 The Council noted that the Fitness to Practise department has been trialing a mediation pilot since September 2013. To date, only one case had been through the mediation process successfully and in light of this, the Council was asked to confirm whether it should continue.

8.3 During the discussion the following points were made:-

- That the resources required to continue to run the pilot would be minimal since all the processes were already in place;
- That the points at which mediation could be pursued by those involved in a Fitness to Practise case were determined by legislation;
- Criteria was in place which determined whether a case was suitable in terms of pursuing mediation;
- It was important to look at ways to promote this and have less focus on a 'pilot' and make it more mainstream;
- With reference to paragraph 5.1, entitled 'mediation refused,' the suggestion was made that the language be amended and the paragraph be entitled 'mediation declined;'
- Some concern was expressed that this pilot may be a distraction from other more important work streams;
- The suggestion was made that there be greater incentives for those who pursue the mediation route;
- Currently, should a complainant decide to pursue the mediation route as an alternative to the final hearing, there was no option to reconsider and hold a final hearing. It was important to seek advice about whether this was a mechanism that could be introduced. The Council noted that this would inevitably mean a change to legislation which would, in all likelihood, take two to three years;
- Council noted that the option to pursue mediation for those involved in FtP cases was an important message to our stakeholders about the type of organisation we are;
- The suggestion was made that we look at other organisations that use this mechanism and see if any learning points can be taken away;
- There was discussion about the use of the term 'pilot' and how the mediation scheme being piloted could be embedded within the fitness to practice process. It was agreed that legal advice should be sought about the terminology and the process for making the pilot process business as usual activity. The process should be reviewed in one year's time.

8.4 The Council agreed to continue with mediation for one further year. Further consideration would be given to whether this was continued at that time.

Item 9.i.15/307 Summary of HCPC's Memorandum of Understandings

- 9i.1 The Council received a report from the Executive.
- 9i.2 The Council noted the current memorandums of understanding (MOU) we have and those we are developing.
- 9i.3 During the discussion the following points were made:-
- There was not always a formal MOU in place with an organisation but instead, an informal agreement in relation to information sharing;
 - That it was important to have a lead contact or responsible officer for all MOU's. The Council noted that consideration would be given to putting a 'lead person' in place for all MOU's when they are reviewed.
- 9i.4 The Council noted the contents of the paper.

Item 9.ii. 15/308 Review of the Professional Standards Authority audit of the Nursing and Midwifery Council

- 9ii.1 The Council received a report from the Executive.
- 9ii.2 The Council noted the key points made by the PSA in the audit report of the NMC's fitness to practice process. It also set out what measures the HCPC has in place, as well as on-going and planned activities, to address the points raised.
- 9ii.3 During the discussion the following points were made:-
- That whilst the NMC do have the equivalent of our 'Quality Compliance Team', we could not be sure about their framework and remit;
 - The Council noted the new approach for the PSA annual performance review.
- 9ii.4 The Council noted the contents of the report.

Item 10. 15/309 In Search of Accountability: A review of the neglect of older people living in care homes investigated as Operation Jasmine (2015) – an update for Council

- 10.1 The Council received a report from the Executive.
- 10.2 The Council noted the Welsh Government published a review of care failings in a number of care homes as investigated under Operation Jasmine in

2015. The report made a number of recommendations which are pertinent to the HCPC and other regulatory bodies. It also explained our response to the recommendations made by the review which are relevant to us and other regulatory bodies.

10.3 The Council noted the paper.

Item 11. 15/310 Operations Departmental Update

11.1 The Council received a report from the Executive.

11.2 The Council noted the main activities of the Operations department.

11.3 During the discussion the following points were made:-

- The new Registration system would alleviate any risk of incorrect entries to the Register;
- The Council noted the update in relation to the disaster recovery plan and moving it from hard copy to portable devices.

11.4 The Council noted the contents of the report.

Item 12. 15/311 Communications Departmental Update

12.1 The Council received a report from the Executive.

12.2 The Council noted the main activities of the Communications department.

12.3 During the discussion the following points were made:-

- The programme of events for 2016 had now been agreed and so this would be circulated to Council members so that they could decide upon those events that they would wish to be involved in;
- That in terms of communication messages to social workers in England, we continued to highlight the importance of registration and that HCPC continues to be the regulator;
- That meetings with David Brindle from the Guardian, and Judy Cam from Community Care would take place in the coming weeks.

12.4 The Council noted the contents of the report.

Item 13.15/312 Chief Executive's Summary of key issues

13.1 The Council noted the following points:-

- Steve Hall, Facilities Manager, would be leaving after 10 years in post. His hard work was acknowledged;
- There were now over 340k registrants on the HCPC Register;
- The new registration system project would focus initially on the CPD process;
- As soon as there was any clarification from Government in terms of their policy, the Council would be informed.

Item 14.15/313 Any other business

14.1 There were no additional items for consideration that day.

Item 15.15/314 Meeting Evaluation

15.1 The following points were noted:-

- There had been a good level of debate and discussion during the course of the meeting;
- Consideration should be given to using social media to a greater extent to promote those items that will be considered as part of the Council meeting;
- That arrangements would be made over the coming weeks for each Council member to undertake their annual appraisal.

Item 16.15/315 Date and time of next meeting

15.1 Tuesday 22nd March 2016 at 2pm and Wednesday 23rd March 2016 at 10am at Park House, 184 Kennington Park Road, London SE11 4BU.

Chair:

Date: