

---

## Fitness to Practise Committee – 25 February 2010

### Expectations of Complainants

#### **Executive summary and recommendations**

In October 2007, Jackie Gulland was commissioned by the HPC to undertake a scoping exercise on existing research on complaints mechanisms( Gulland 2008). A potential area for future research highlighted in her report was the expectations of complainants when they make a complaint to a regulatory body. That recommendation was subsequently endorsed by the Fitness to Practise Committees in February 2009 and in June 2009 the Executive issued a research brief and as a result commissioned IPSOS MORI Social Research Institute to undertake that research.

The overall aim of the research was to determine the expectations of complainants in terms of:

- The role of the regulator
- Initial expectations
- Case handling
- Outcome

Attached as appendices to this paper is the IPSOS MORI report and suggestions as to how the Executive should progress with the suggested recommendations. This work plan forms part of the overall Fitness to Practise department work plan for 2010-2011.

#### **Decision**

The Committee is asked to:

- (a) discuss the IPSOS MORI report
- (b) discuss and approve the 'Expectations of Complainants work plan for 2010-2011

#### **Background information**

None

#### **Resource implications**

To be considered as part of the review.

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2010-02-09	a	F2P	POL	Expectations of Complainants_research	Final DD: None	Public RD: None

**Financial implications**

The costs of the research were accounted for in the 2009-2010 budget. Any recommendations from the research have been accounted for in the 2010-2011 Fitness to Practise budget.

**Appendices**

Executive commentary on the research and work plan  
IPSOS MORI report 'Expectations of the Fitness to Practise Complaints Process'

**Date of paper**

12 February 2010

## Expectations of Complainants – Executive Commentary and Work plan

### **1.0 Introduction**

- 1.1 The research commissioned by HPC on the expectations of complainants raised a number of interesting issues. Attached is a timetable as to how the Executive proposes to progress with both the recommendations that have been made in the research but also in other areas of work that fall within the Fitness to Practise Department's strategic objective of improving accessibility and improving communication and information provision.

### **2.0 Recommendations**

- 2.1 IPSOS MORI make a number of recommendations on the basis of the research. Comments on those recommendations and a proposed course of action are provided below.

#### **Providing complainants with a roadmap**

- 2.2 This recommendation suggests that HPC should provide a chart that signposts complainants to the key points in the fitness to practise process, all potential outcomes and the likely length of time involved at each step and that such a road map would aim to clarify the steps and potential outcomes of the process and the lengths of time involved for each step. It is also recommended that complainants should be reminded of the likely timeframes for their case before each stage in the process. It is suggested that HPC should also clarify the length of time after an incident occurs in which complainants can make a complaint and the importance of plain English

### **2.3 Executive suggestions**

- 2.3.1 The Executive propose that these recommendations should inform the current review of the literature made available to complainants when they make a complaint. That literature includes:
- How to make a complaint about a health professional;
  - The fitness to practise process: Information for employers
  - Reporting a concern form
  - What happens if a complaint is made against me
  - Website information

- 2.3.2 Furthermore, the Executive proposes that the standard letters that are used to respond to complaints are reviewed and adapted as appropriate to ensure the recommendations referred to above are implemented. The response will also include the production of an online DVD similar to the one produced for CPD and students, explaining in further detail what to expect at a hearing.
- 2.3.3 We also propose to review the information that is provided by other organisations on their website for complainants (for example, GMC, CQC, NPSA) and review the possibility for submitting complaints on –line. Any recommendations from this will form part of the work plan and budget for the communications and fitness to practise departments in 2011-2012.

### **Improvements to the information provided to complainants at the point of initial contact**

- 2.4 This recommendation suggests that clearer information should be provided about the difference between a complaints resolution process and the fitness to practise process, for example, making complainants aware of the list of other organisations that they may contact for advice and support; stressing that the HPC fitness to practise process will not resolve clinical healthcare issues for complainants; explaining the impact that placing a complaint with the HPC will have on other areas for resolution and providing more indication to complainants of the extent of the undertaking in terms of the investment of their own time and energy.

### **2.5 Executive suggestions and comments**

- 2.5.1 The Executive proposes that further detail should be provided in the relevant literature on the purpose the fitness to practise process and the signposting operating guidance and standard letters should be updated to take account of this. A handout is already provided to complainants when a case is due to be considered at the Investigating Committee and this will be updated in order to provide further detail on what the decision making capabilities of this Committee are. The organisation 'Accident Against Medical Accidents' (AvMA) has also produced a report on the public's access to fitness to practise information and complaints procedures from the health regulators. The Executive proposes that this report (and other similar reports) should be reviewed as part of the process of ensuring relevant information is provided to those who wish to make a complaint. The Executive also proposes that the Committee should consider on a yearly basis a report on the feedback received from witnesses and any suggestions as to how processes should be improved.

#### **- How fitness to practise operates and HPC's remit**

- 2.6 The report recommends that HPC should explore:
- opportunities for providing a mediation and conciliation process prior to complainants entering the formal fitness to practise process;

- the possibility for complainants to have 'right to reply' following the 28-day response from the registrant in question; and
- considering the specialism of the registrant in question and matching the professional panel member accordingly.

## **2.7 Executive suggestions and comments**

## **2.8 Conciliation processes**

2.8.1 The Committee is aware that the Health Professions Order 2001 (the "2001 Order) provides that, in relation to a fitness to practise allegation, if:

- an Investigating Committee Panel concludes that there is a case to answer, it may undertake mediation instead of referring the allegation to another Practice Committee;
- a Panel of the Conduct and Competence Committee or Health Committee finds that the allegation is well founded, it may undertake mediation if it is satisfied that it does not need to impose any further sanction on the registrant.

2.8.2 This means that mediation is not currently available prior to complainants entering the formal fitness to practise process. At the Council away day in October 2009, the Council also discussed the question 'Does alternative dispute resolution have a role in the fitness to practise processes of a professional regulator.' The question prompted a wide ranging discussion and the Executive were asked to look into the issue further. The Policy and Standards and Fitness to Practise department(s) will work together over 2010-2011 on this piece of work and the Committee at this meeting (February 2010) is asked to consider a work plan on 'Alternative mechanisms to resolve disputes.' This work will include:

- a literature review of the material available in this area;
- a review of other organisations who undertake mediation;
- a review of 'consumer complaints'
- consideration as to whether it is appropriate to provide 'learning points' to registrants where there has been a no case to answer or not well founded decision.

2.8.3 Further information on this can be found in the work plan for this piece of work.

2.8.4 The recommendation here perhaps also indicates that further work should be done by the Executive on the kind of issues that should be the responsibility of the regulator and the meaning of fitness to practise. As part of the work that has been done in reviewing the standard of acceptance of allegations and the possibility of using sifting tools, consideration has already been given to this topic. The Executive suggests therefore that the ongoing review of cases should include updating the practice note in this area as appropriate. If changes are made in this area, this information should be communicated accordingly by updating the website and brochures as appropriate. It is also suggested

that when such changes are made this should also be communicated through the HPC 'In focus' newsletter.

- 2.8.5 Furthermore, the Executive proposes that the Council should consider further the meaning of fitness to practise in the HPC context and a discussion paper to that effect will be provided to the March 2010 meeting of Council.

## **2.9 Right to reply**

- 2.9.1 The Council for Healthcare Regulatory Excellence (CHRE) published in December 2009 a report on 'Handling complaints: Sharing the registrant's response with the complainant.' That report has made a number of recommendations and the Fitness to Practise Committee is asked to consider and discuss that report at its February 2010 meeting. Any suggestions from that work will inform the review of the information that is available.

## **2.10 Role of panel members**

- 2.10.1 This recommendation forms part of the quoracy requirements for panels. It appears from this recommendation that complainants are not fully aware of this requirement and the Executive proposes to update the literature accordingly.

- **Improve communications with registrants, employers and other key stakeholders**

- 3.0 The report suggests that further work should be done to clarify what forms a decision in relation to whether a registrant's fitness to practise is impaired. It is also recommended that the reasoning behind decisions are provided on the internet following the hearing, and that improvement could be made to the guidance that is provided to employers.

## **3.1 Executive comments and suggestions**

- 3.1.1 Suggestions have been made above as to the work the Executive and Council should do in relation to ensuring understanding of the concept of fitness to practise. Council agreed the policy in relation to the provision of information on the website in January 2007. The Executive suggests that this policy is reviewed to ensure it remains fit for purpose and any changes (or not) to it are communicated through the literature that is provided to complainants and registrants.
- 3.1.2 The executive propose that the brochure 'Fitness to Practise: Information for Employers' should be reviewed accordingly and consideration given to the production of a referral form particularly designed for employers.

## **Consider reviewing the role of the Case Manager and the approach that is taken in case handling**

- 3.2 The report suggests that the role of the case manager should be more clearly defined. It suggests that HPC should consider the possibility of face-to-face meetings with Case Managers. A recommendation has also been made about ensuring that complainants and witnesses fully understand the role of the presenting officer and what they should expect at the hearing. It is also suggested further information should be provided about the appeal processes and the possibility for applying for judicial review.

### **3.3 Executive Comments and suggestions**

- 3.3.1 A brochure designed for witnesses is due to be published at the end of March 2010. This brochure covers many points in the recommendation about what witnesses should expect during the fitness to practise process. Furthermore, one of the responsibilities of the Case and Witness Liaison manager is to allay any concerns witnesses have regarding attending hearings. The Executive also proposes to ensure that information is provided to witnesses and complainants about the role of a case manager. We also propose to update the brochures and standard letters that are sent to complainants and witnesses and registrants to ensure that they are aware of any appeal mechanisms.
- 3.3.2 The Executive does not consider that it is always appropriate for face-to-face meetings to be part of the case to answer processes unless there are difficulties formulating complaints and a face to face meeting may be necessary. Further meetings between complainants/witnesses and the case manager are sometimes arranged when vulnerable witness assessments are required after a case to answer decision. However, we do propose that we produce operating guidance including risk assessment criteria as to when it is appropriate to hold such a meeting in advance of the case to answer stage. The Executive considers that such meeting should only take place under certain circumstances, for example if the complainant requires additional assistance or support. All registrants and complainants are provided with the telephone number of their case manager and should remain their primary source of contact. The role of the presenting officer in preparing the case includes taking statements from the witnesses.

## 4.0 Work plan

This work plan below sets out the time table for the work outlined above.

<b>Activity</b>	<b>Timescale</b>	<b>Role (s) responsible</b>
Review website information policy	May 2010	Head of Adjudication with Communications department
Review information provided on the website (including analysis/business cases of what information should be provided in the future)	April – December 2010	Leads, Head of Case Management and Head of Adjudication,
Keep under review standard of acceptance for allegations	Ongoing	Head of Case Management
Alternative mechanisms to resolve disputes	April – December 2010	Director of Fitness to Practise and Director of Policy and Standards
Review and update Existing Publications and produce new publications where necessary <ul style="list-style-type: none"> <li>- The fitness to practise process: Information for employers</li> <li>- What happens if a complaint is made against me?</li> <li>- How to make a complaint about a health professional</li> <li>- Information for witnesses</li> <li>- Reporting a concern form</li> </ul>	April – September 2010	Lead Case Managers
General review of relationship with employers including: <ul style="list-style-type: none"> <li>- a referral form for employers</li> <li>- self-referral form for registrants</li> </ul>	June – December 2010	Lead Case Managers with Communications department
Standard letters review	April – July 2010	Lead(s), with Director of Fitness to Practise sign off
Hearings DVD	April – September 2010	Head of Adjudication with Communications department
Annual review of witness and complainant feedback	February 2011	Head of Adjudication and Head of Case Management



# **Expectations of the Fitness to Practise Complaints Process**

Research for the Health Professions  
Council: Final report

January 2010

## **Legal notice**

© 2010 Ipsos MORI – all rights reserved.

The contents of this report constitute the sole and exclusive property of Ipsos MORI.

Ipsos MORI retains all right, title and interest, including without limitation copyright, in or to any Ipsos MORI trademarks, technologies, methodologies, products, analyses, software and know-how included or arising out of this report or used in connection with the preparation of this report. No license under any copyright is hereby granted or implied.

The contents of this report are of a commercially sensitive and confidential nature and intended solely for the review and consideration of the person or entity to which it is addressed. No other use is permitted and the addressee undertakes not to disclose all or part of this report to any third party (including but not limited, where applicable, pursuant to the Freedom of Information Act 2000) without the prior written consent of the Company Secretary of Ipsos MORI.

# Contents

<b>Executive Summary .....</b>	<b>4</b>
<b>1. Introduction .....</b>	<b>11</b>
1.1 Background.....	11
1.2 Objectives .....	12
1.3 Methodology.....	13
1.4 Interpretation of qualitative findings.....	16
1.5 Publication of data.....	16
<b>2. Key issues .....</b>	<b>18</b>
2.1 Setting out the remit of the HPC.....	19
2.2 Timeframes .....	22
2.3 Conclusions.....	25
<b>3. Making a complaint.....</b>	<b>27</b>
3.1 Choosing the HPC .....	27
3.2 What do stakeholders expect the HPC to do?.....	31
3.3 Conclusions.....	33
<b>4. Expectations of case handling.....</b>	<b>35</b>
4.1 Awareness of the Case Manager role .....	36
4.2 What does an ideal Case Manager look like? .....	37
4.3 Changing roles in case handling .....	41
4.4 Is case handling meeting expectations? .....	42
4.5 Conclusions.....	44
<b>5. Attending the hearing .....</b>	<b>46</b>
5.1 What do complainants expect from the hearing? .....	47
5.2 Does the hearing match expectations? .....	48
5.3 Transparency .....	52
5.4 Conclusions.....	53
<b>6. After the decision.....</b>	<b>55</b>

6.1 Explaining the reasons for the decisions reached .....	55
6.2 Expectations of an appeals process.....	57
6.3 Conclusions.....	57
<b>7. Recommendations .....</b>	<b>59</b>
<b>Appendix 1: Invitation to Recent Complainants .....</b>	<b>63</b>
<b>Appendix 2: Topic guides.....</b>	<b>65</b>
Interviews with recent complainants.....	65
Interviews with key stakeholders.....	71
Discussion group with members of the public .....	77
Discussion groups with registrants.....	86



# **Executive Summary**

# Executive Summary

This research examines the views of a sample of members of the public, registrants, complainants and key stakeholders on expectations of the Health Professions Council's (HPC's) fitness to practise process. This qualitative study aimed to explore the expectations of these groups in terms of:

- the role of the HPC as a regulator;
- initial expectations when preparing and lodging a complaint;
- case handling; and
- the outcome of the fitness to practise process.

This work will inform the future development of the HPC's fitness to practise process information and the management of public and patient expectations, as well as adding to the evidence base of professional health regulation.

Four discussion groups were conducted, two with members of the general public, and two with registrants, none of whom had previous experience of the HPC fitness to practise process. In addition, 18 telephone depth interviews with registrants, complainants and employers who made complaints were conducted. A further five telephone depth interviews were carried out with key stakeholders identified by the HPC from professional groups, regulatory bodies and third-sector/not-for-profit organisations.

The key findings are outlined in this executive summary.

## Key Issues

Members of the public welcomed the fact that the HPC operated as a multi-professional regulator. In contrast, registrants expressed some unease about the number of professions regulated by the HPC as they were unsure that the differences between all of the professions were fully recognised.

The HPC was viewed by all key stakeholders interviewed as an organisation which exists primarily to protect the public and also to uphold the code of ethics of the professions that it regulates. Regulation of ethical practice was seen to be particularly important for those practising in the independent or private sector.

In general, a period of 3-6 months from complaint to the final hearing was felt to be acceptable, although this was dependent on the seriousness of the complaint and what the complainant saw as the remit of the HPC. For instance, those participants

with health issues thought the HPC should be able to intervene clinically and felt that shorter timescales should be in place.

In addition, registrants and employers were mindful of the impact on the registrant against whom the complaint had been made. As such, they felt it was important to minimise the time in which the registrant experienced any pressure and stress associated with the uncertainty of a decision that could have a significant impact on their future career. Complainants were also mindful of an impaired ability to recall events accurately when longer time periods elapsed between submitting the complaint and bringing it to a hearing.

Complainants, registrants, key stakeholders and members of the public alike felt that it was important for complainants to know how long each stage of the process would take as it developed.

Furthermore, it was suggested that guidance should be provided at the beginning of the process about the impact of the HPC fitness to practise process on exploring other avenues for complaint.

## **Making a Complaint**

In most cases, awareness of the HPC was currently too low for it to be a first port-of-call for the public. However, most members of the public reported being confident that they could find out which organisation to approach if they needed to do so. This could be done through other professional or regulatory bodies, or by searching using the internet. Registrants reported that they would approach their professional body in the first instance as they would be comfortable that their professional body would be 'on their side'.

Making a complaint is not a decision that was ever taken lightly, and complaints were reported to be escalated to the HPC after resolution had been sought with the registrant in question, or with their employer.

There was some confusion as to whether the remit of the HPC would include informal advice and mediation as well as a formal fitness to practise process. Some members of the public said they were unaware that in submitting a complaint they would be entering into a formal process. This lack of knowledge is likely to be as a result of the low awareness among members of the public of the HPC and its role as a regulator. Furthermore, when these members of the public were informed that submitting a complaint constituted entry into a formal fitness to practise process, this tended to raise their expectations about the outcome that would result.

Submitting a complaint was generally considered to be a straightforward process. On the whole, complainants expected that they would be required to make a written complaint and they were positive about the 'how to' pack which they had received. However, some commented that they were unsure about the level of detail and



amount of evidence that the written submission required. Employers said they would welcome more guidance as to how the HPC complaints procedure would fit with internal disciplinary procedures of employers, such as the NHS. There was also an expectation among some complainants that the remit of the HPC included intervening in their clinical care.

## Expectations of Case Handling

Prior to accessing the service, complainants anticipated being allocated a single point of contact who would manage their complaint. There was, however, a low level of awareness of the Case Manager role among complainants who were members of the public – in many cases these complainants did not realise that the contact person identified was their Case Manager. Complainants who were registrants and employers were more aware of the Case Manager role and had, in most cases, been expecting a Case Manager to be allocated.

A Case Manager was expected to be a named point of contact and a hub for different sources of information. For some participants the idea of some personal, face-to-face contact from a Case Manager was important in making the complainant feel valued. It was important that they act as a guide through the process for those who did not have prior experience in this setting. Regular and unprompted contact from the HPC were seen by participants to be the key factors in determining good case management, including updates on the expected timeframes for each stage of the process.

Some participants felt that the appointment of the Presenting Officer caused discontinuity in the case management process. This was as a result of being presented with someone new who, while not necessarily introduced by their Case Manager, became their primary source of contact in place of the Case Manager. Complainants felt that the appointment of the Presenting Officer changed the nature of the complaint to something much more formal, and some complainants found this daunting.

There was a feeling among complainants that the Presenting Officer was 'on their side' to a greater degree than the Case Manager. While some participants felt that the Case Manager should take an overview of the process and provide them with pastoral care to guide them through the complaints journey, there were others who would have preferred the Case Manager to be 'fighting for them'.

Linked to the desire for the HPC to have a mediation role in addition to a formal fitness to practise process, complainants expressed the desire for an opportunity to view, and respond to, the 28-day response from the registrant in question. In some cases, complainants felt that the lack of opportunity to do so meant that the complaint was escalated unnecessarily.

## Attending the hearing

The experience of the hearing and the outcome of the hearing, were key to determining how complainants felt about the process as a whole. There was an expectation that the hearing would be set up in a formal manner. Members of the public who participated in the study tended to equate the formality of the hearing with the seriousness with which the complaint was being assessed.

On the whole there was agreement from members of the public and registrants about the make-up of the panel. They expected the panel would include a member of the profession in question (one who understands the particular specialism, including whether in a statutory or private setting) as well as an independent lay person.

Those complainants who attended the hearing as witnesses reported feeling uncomfortable with what they had experienced. Most did not feel prepared for the type and length of the questioning that they received. Some spoke about being 'cross-examined on the stand' and felt this to be unfair when they were not the person who was being investigated. In addition, complainants did not understand why the registrant in question was able to view all the material relating to the complaint in advance of the hearing. Complainants felt that this put them at a disadvantage because they were unable to prepare a response for issues that the registrant may raise, particularly when their own professional integrity was called into question and they were unable to defend themselves. This also affected their perception of the fairness and equality of the hearing itself and emphasised the need for complainants to fully understand the procedures and the impact of these.

Although complainants may have been briefed on the role they would play in the hearing, there was a desire to be more informed about how it would operate and also an opportunity attend the outcome of the hearing. As complainants are in fact permitted to attend the outcome of the hearing, this is clearly a misconception which needs to be addressed.

While key stakeholders acknowledged that the transparency of the process was one of its strengths, registrants and members of the public expressed concerns about the way in which all hearings are reported on the internet. Registrants were concerned about the impact on a health professional being publically associated with a complaint, even when the outcome may be no case to answer. Members of the public were uncomfortable with the idea of discussing private health-related matters in a public forum.

## After the decision

In presenting the outcome, participants felt that it was key for the HPC to explain the decision that had been reached and provide an account of how the panel had reached the decision.

There was also general agreement that an appeals process should be in place for complainants to pursue if they disagreed with the decision. However, there was confusion among complainants about the possibilities for appeal. Some felt an appeal would be pointless because the HPC would not overturn a decision. This indicates a need for better information about the consequences of applying for a judicial review, and how to go about doing so.

## Recommendations

On the basis of this research, we put forward a series of recommendations for consideration by the HPC.

The first recommendation centres around **providing complainants with a ‘road map’**. This would be a chart that signposts complainants to the key points in the fitness to practise process, all potential outcomes and the likely length of time involved at each stage. Such a road map would aim to clarify the steps in (and potential outcomes of) the process, and the lengths of time involved for each step. It would also serve to respond to any expectations which complainants may have. Linked to this, complainants should be reminded of the likely timeframes for their case *before* any key stage in the process. This is to ensure that complainants were clear about what would happen, next and how long that may take. In mapping out the process, we recommend that the HPC clarifies the length of time after an incident occurs in which complainants were able to lodge their complaint. Crucially too, it is important not to assume any legal knowledge on the part of the complainant – jargon needs to be conveyed in plain English.

Secondly, we recommend **improvements to the information that is provided to complainants at the point of initial complaint**. Such changes will help to ensure that complainant expectations are more closely aligned to the fitness to practise process. These improvements include: providing clearer information about the difference between complaints resolution and the fitness to practise process; making complainants aware of the list of other organisations that they may contact for advice and support; stressing that the HPC fitness to practise process will not resolve clinical healthcare issues for complainants; explaining any impact that placing a complaint with the HPC will have on other avenues for resolution; and providing some indication to complainants of the extent of the undertaking in terms of the investment of their own time and energy.

Our third set of recommendations relates to **the HPC’s remit and the fitness to practise process**. We recommend that the HPC explores:

- opportunities for providing a mediation and conciliation process prior to complainants entering the formal fitness to practise process; and also
- the possibility for complainants to have a right of reply following the 28-day response from the registrant in question.

In addition, when bringing together the panel for a hearing, we recommend that the HPC considers the specialism of the registrant in question and matches the professional panel member accordingly.

The fourth set of recommendations relates to **communications with registrants, employers and key stakeholders**. There is an opportunity for communications to clarify whether ethical practice is part of fitness to practise regulation, and how the HPC upholds ethical codes of practice amongst independent practitioners. In addition, we recommend that:

- communications make explicit the differences in standards of competence for each profession, as well as generic standards;
- reasons behind the details of all hearings being provided on the internet are explained; and
- improvements are made to guidance for employers about requirements for the submission of information and how the HPC fitness to practise process links with the internal disciplinary procedures of employers.

Our final set of recommendations relates to **case handling and fitness to practise hearings**. In communications with complainants we suggest that the named point of contact is referred to as the complainant's Case Manager and that the role of the Case Manager is clearly defined, including their neutrality. We also suggest that the HPC investigates whether it may be possible to offer complainants the opportunity for a face-to-face meeting with their Case Manager. In relation to Presenting Officers, we recommend that complainants receive a letter from their Case Manager that introduces the Presenting Officer and explains the differences between the two roles. We also suggest that Presenting Officers are provided with guidance on how to prepare complainants for a hearing, including correcting the misconception that complainants have that they are unable to attend the outcome of the hearing. Additionally, complainants need to be forewarned that cases may take longer (or, in fact, less time) than planned.

In presenting the outcome, we recommend that the HPC provides an explanation of the decision that was reached and an account of how the panel had reached that decision. Finally, we suggest that information about the possibilities for appeal be improved, including why the HPC will not overturn a decision, the consequences of applying for a judicial review, and how to go about applying for one.

# Introduction

# 1. Introduction

This report contains the findings of a qualitative study conducted by the Ipsos MORI Social Research Institute on the Health Professions Council's (HPC) fitness to practise process. The research was conducted among members of the public, other HPC stakeholders ('key stakeholders') and the 14 different health professionals (HPs) that the HPC regulates. The work was commissioned by the HPC through a competitive tendering process.

## 1.1 Background

### ***Previous Ipsos MORI Research***

Previous research undertaken on behalf of the HPC by Ipsos MORI on awareness and understanding of regulation of its health professionals has informed our approach to this study.<sup>1</sup> We know from this work that the public's understanding of the role of a regulatory body is quite low. Our survey work shows that amongst members of the general public, there are very few with cause for concern about the skills or behaviour of a health professional who would contact the HPC in the first instance (six per cent), though this rises to 14% among those who have heard of the HPC.

Our previous research also found that attitudes towards the HPC among registrants are in general terms quite negative. However, this should be set in the context of low awareness of how the HPC operates and its role and responsibilities. Very little is known about how the HPC operates, and particularly, very little is known with regard to how the HPC is involved in monitoring Continuing Professional Development (CPD) and how the fitness to practise process works.

However, in contrast with reported attitudes among registrants, attitudes towards the HPC among stakeholders are generally very positive. Familiarity with the HPC and what it does is quite high, and most stakeholders feel that they understand the objectives of the HPC at least fairly well.

### ***Fitness to practise complaints***

The HPC receives complaints about health professionals from a wide range of sources, including the public, employers and other registered health professionals. In the period 1 April 2008 – 31 March 2009 it received 483 complaints about health professionals, of which 109 cases were made by members of the public.

---

<sup>1</sup> Health Professions Council (2008) *Public, Registrant & Stakeholder Views of the Health Professions Council* (Ipsos MORI: October 2008). This research was about general attitudes towards the HPC, rather than expectation of complainants, which was the focus of the current study.

A total of 299 cases were considered by the panels of the HPC investigating committee in 2008-2009 to determine whether there was a case to answer in relation to the allegation that had been made. Of those 299 cases, 78 were complaints by members of the public, of which only 17 cases (22%) were referred to final hearing panels. This compares with an average of 57% across all complaints that were referred to final hearing and suggests that complaints by members of the public are less likely to be referred.

Based on previous research, Ipsos MORI has some hypotheses about why this may be so – perhaps members of the public do not know how to go about making a complaint, or lack representation or time to do so, or perhaps they are concerned about being drawn into a potentially stressful situation, or about the consequences for the health professional (or themselves). Clearly, without undertaking a review of the no case to answer cases and decisions, it is not possible to know the true reasons why they did not reach a final hearing. However, an independent report on the nature of complaints against HPC-regulated professions<sup>2</sup> refers both to difficulties in obtaining information about the complaints procedure, and the stresses of a case, which corroborate some of our hypotheses above.

### ***The Gulland Review***

In October 2007, Gulland undertook a scoping exercise on existing research on complaints mechanisms.<sup>2</sup> A key finding of this review was that there is very little published research on complaints against the non-medical professions regulated by the HPC. The report also identified a number of barriers to complaining, including difficulties in obtaining information about the complaints procedure, a problem exacerbated by the complexity of organisations providing care.

Another key finding, and one with particular relevance to this study, was that whilst most studies of complainants found that people were dissatisfied with the complaints procedure, their satisfaction (or lack of it) depended in part on what they were expecting from the procedure in the first place. Attempting to resolve problems can be stressful and a lack of common understanding of the complaints procedure can be a source of dissatisfaction among users. Communication with complainants and potential complainants about what can and cannot be dealt with is therefore vital. With this in mind, a potential area of future research highlighted in the review was the expectations of complainants when they make a complaint to a regulatory body.

## **1.2 Objectives**

The overall aim of the research was to ascertain the expectations of complainants, stakeholders, members of the general public and HPC registrants in terms of:

- the role of the HPC as a regulator;

- initial expectations when preparing and lodging a complaint;
- case handling; and
- the outcome of the fitness to practise process.

The objective of the study was to obtain information that would inform the HPC and its stakeholders to help develop its future communication strategies around the fitness to practise process and to further improve its processes.

The focus of this research was on complainant expectations when they entered the process and as they moved through it. However, as the complainants who contributed to the research tended to be those who disagreed with the outcome of their complaint, by definition, they were probably less happy than average with the fitness to practise process. While this study in effect asked them to cast their mind back to the beginning, it should be borne in mind that the negative outcome may have influenced their responses, and that overall, they may have had higher expectations than average at the outset. Nevertheless, we were able to focus on complainant expectations.

### 1.3 Methodology

The research methodology comprised in-depth telephone interviews with recent complainants to the HPC and with key HPC stakeholders, and discussion groups among health professionals (those registered with the HPC) and members of the public.

#### ***Qualitative Research with Recent Complainants***

Eighteen telephone depth interviews with recent complainants were conducted between 4 and 24 November 2009.

The HPC recruited from a list of recent complainants, inviting complainants to take part in the research. Potential interviewees were selected on the basis of the following factors:

- whether they had complained as a member of the general public, a registered health professional or employer;
- whether the HPC had found a case to answer in respect of their complaint; and
- where it was determined that there was a case to answer in respect of the complaint, whether or not the complainant had attended the hearing.

---

<sup>2</sup> Gulland, J. (2009) *Scoping report on existing research on complaints mechanisms* (London: Health Professions Council).



Table 1 displays a breakdown of the sample of 19 recent complainants provided to Ipsos MORI by the HPC. All but one of these were interviewed in order to achieve a total of 18 interviews<sup>3</sup>. Note that verbatims have been attributed according to the category that individual complainants considered themselves to be.

**Table 1 Breakdown of complainants in the sample**

	Case to answer		No case to answer	Total
	Attended hearing	Did not attend hearing		
Members of the Public	0	2	4	6
Registered Health Professionals	5	0	3	8
Employers	2	1	2	5

*Source: Ipsos MORI*

**Qualitative Research with Key Stakeholders**

Five key stakeholder interviews were conducted between 10-18 November 2009. The HPC provided Ipsos MORI with a list of 29 key stakeholders from which to conduct the interviews, and Ipsos MORI selected a sample from this list.

The sample included a mix of respondent types in the following categories:

- Professional groups
- Regulatory bodies
- Third sector/not-for-profit organisations

**Qualitative Research with Members of the Public and Registrants**

Four discussion groups were held – two in York and two in London – in the week commencing 16<sup>th</sup> November 2009. In each location two groups were held consecutively, one with health professionals registered with the HPC and one with members of the public.

<sup>3</sup> Because of the system of opt-in, it was not possible to know how many of the leads would emerge for the 18 interviews to be conducted from. In consenting to the research, recent complainants were aware that the HPC would provide their contact details to Ipsos MORI (see Appendix 1 for a copy of the opt-in letter).

The registrant groups were recruited via telephone by Ipsos MORI's specialist team from a random sample (stratified by health profession and location – York and London) of 84 registrants provided by the HPC. A letter was sent in advance to potential participants. Registrants from across the 14 professions that the HPC regulates took part, with a mix of representatives from the different professions in each group. The discussion group members were also mixed in terms of age and gender.

The participants of the other groups were recruited by Ipsos MORI's specialist team via an on street face-to-face method.

Table 2 gives a summary of the participants recruited for each group:

<b>Table 2 Breakdown of Discussion Group Participants</b>					
	<b>Location</b>	<b>Date</b>	<b>Gender</b>	<b>Age</b>	<b>Social Grade</b>
Members of the Public Group 1	York	16/11/2009	6 women / 2 men	25-50	B,C1
Members of the Public Group 2	London	18/11/2009	6 women / 4 men	30-55	C2, D, E
HPC Registrant Group 1	York	16/11/2009	6 women / 1 man	25-55	<b>Professions Represented</b> Arts Therapist; Biomedical scientist; Clinical Scientist; Orthoptist; Occupational Therapist
HPC Registrant Group 2	London	18/11/2009	3 women / 5 men	25-50	Biochemist, Chiropodist; Clinical Scientist; Dietitian; Occupational Therapist; Operating Department Practitioner; Paramedic; Podiatrist

*Source: Ipsos MORI*

The in-depth semi-structured interviews tended to last between 30 – 45 minutes and the discussion groups lasted around 90 minutes each. All discussion groups and in-

depth interviews were led by a topic guide, which was developed and agreed with the HPC. Topic guides are included in Appendix 2.

All qualitative in-depth interviews and discussion groups were moderated by an Ipsos MORI moderator. The participants themselves dictated the general content and flow of the discussions, within the framework of the topics introduced by the moderators.

With the permission of participants, all discussions were recorded and then transcribed for analysis. Quotations are cited textually in the analysis to add detail to the interpretation. In general, these illustrate the consensus view. The identities of participants have been kept confidential throughout.

### 1.4 Interpretation of qualitative findings

This study has explored the attitudes and experiences of participants. The aim was not to generalise to the wider population in terms of the prevalence of attitudes or behaviours but to identify and explore the different issues and themes relating to the subject being researched.

Care has been taken throughout this report to ensure that comments are not able to be attributed to individual participants.

### 1.5 Publication of data

The standard Ipsos MORI Terms and Conditions apply to this, as to all studies we carry out. Compliance with the MRS Code of Conduct and our clearing is necessary of any copy or data for publication, use on websites or press releases which contain any data derived from Ipsos MORI research. This is to protect our client's reputation and integrity as much as our own. We recognise that it is in no-one's best interests to have research findings published which could be misinterpreted, or could appear to be inaccurately, or misleadingly, presented.

*©Ipsos MORI/J36673 & 09-029689-01*

*Michele Corrado*

---

*Kate Brough*

---

*Anne Charlton*

---

*Simon Watmough*

---

# Key issues

## 2. Key issues

This chapter considers some of the over-arching issues identified in the research that apply to more than any single stage in the fitness to practise process. Firstly we look at what the participants in the study thought the role of the HPC should be, and how this differed among the groups. This understanding of the organisation framed the expectations that people would have about the fitness to practise process and as such is key in understanding where complainants start from when they come into the process. The chapter then considers the timescales of the process, both in terms of expectations and experience, and how these impact upon the complainant.

### Key Findings – Key Issues

- Members of the public welcomed the fact that the HPC operated as a multi-professional regulator. However, registrants and some key stakeholders expressed concern about whether the HPC is able to fully recognise the differences between each of the professions it regulates.
- The HPC was viewed by all participants as an organisation which exists primarily to protect the public and also to uphold the code of ethics of the professions that it regulates.
- Regulation of ethical practice was seen to be particularly important for those practising in the independent or private sector.
- An acceptable timeline from complaint to the final hearing was felt to be somewhere around 3-6 months. This period was dependent on the seriousness of the complaint and what the complainant saw as the remit of the HPC. For instance, those members of the public who thought the HPC would be able to intervene clinically, felt shorter timescales were more appropriate.
- Registrants and employers were mindful of the impact on the registrant against whom the complaint had been made and wished to minimise the time in which the registrant experienced any pressure and stress associated with the uncertainty of a decision that could have a significant impact on their future career.
- Complainants were also mindful of an impaired ability to recall events accurately when longer time periods elapsed between submitting the complaint and bringing it to a hearing.

## 2.1 Setting out the remit of the HPC

There is quite a low awareness of the HPC among members of the public.<sup>4</sup> Whilst other organisations, such as the GMC, are slightly more recognised by respondents than other regulators, there is low recognition generally of health regulators and their role in the fitness to practise process. Indeed, participants in this study questioned the need for another body in addition to the GMC.

**You've got other regulatory bodies, which is the General Medical Council... Why is it necessary to have yet another body of HPC? Why don't they put these in with those?**

Member of the public, London

Equally, the HPC was seen in a positive light as it provided a single regulatory standard of conduct and a single 'point of contact' for a number of health professions, which some members of the public had assumed would be profession-specific.

**I'm surprised there's one body actually. I'd have thought everybody would have had their own little [regulator]. It's almost reassuring to think there is more of an umbrella organisation**

Member of the public, York

It was also felt that this standardisation with the HPC professions should go further and present a standardised code of practice or proficiency across all professions, thus holding healthcare professionals to a 'professional' code of conduct rather than having profession-specific standards of competence.

**I would like to think it was standardised across the board ... not just within the healthcare professions, but I would like to think that these people were fit amongst the standard that was seen to be at a professional level with others; police, teachers**

Member of the public, York

However this standardisation made other participants uneasy.

**I do wonder whether there's an opportunity for making sure they've recognised the differences in the different professions**

Key stakeholder

One key stakeholder whom we interviewed explained how they felt the HPC was perceived as advocating the medical model in its standards, and that this might not be the most appropriate model for standards across all of the professions that it regulates.

---

<sup>4</sup> Health Professions Council (2008) – *Public, Registrant & Stakeholder Views of the Health Professions Council* (Ipsos MORI: October 2008).

**There's certainly a shared unease about the medical model of the HPC in its generic standards of proficiency. And that would be shared by all of the therapy organisations**

Key stakeholder

In general, study participants were clear that the main role of the HPC was to protect the public. Registrants were aware of their responsibility to ensure that colleagues whom they felt were not performing to the required standard were brought to the attention of the HPC.

**Well it was a government appointed body. Financed by the tax payer, I expect. And it said that they were there to protect the public**

Member of the public, Complainant

**I'm aware that it's your duty to report anyone who is practising and not fit**

Registrant, York

There was some confusion over the remit of the HPC amongst the public in terms of the ability to rectify issues, as well as impose sanctions on the registrant involved. For example, some participants said that if they approached the HPC with a complaint about the care they received from a healthcare professional, they would expect the HPC to be able to move their care to a different professional.

For those who approached the HPC with regard to their healthcare situation, the process felt long and complicated and was reportedly not giving them what they felt they needed. Whilst these complainants often did have a complaint against an individual practitioner, they approached the HPC as an organisation that could help them get what they want from the healthcare system rather than to regulate the individual.

**I very much get the impression that they would get told off. There may even be a money issue... but I don't know of any. I can't think of any organisation that would put it right for you**

Member of the public, York

There was also debate over the seriousness of complaints to be brought before the HPC. There was an initial general perception that the HPC should be approached for levels of serious misconduct. However, some of the examples provided in the HPC leaflet were what the public would consider to be lower level complaints.

**It's interesting that we all think that this is for serious misconduct, isn't it? Because I absolutely read it as serious misconduct. And then when you actually look at the list of misconduct it says: "Not communicating well enough for service users." So it is actually saying this is the same process for that low level of stuff**

### Member of the public, York

One key stakeholder summed up the difference between the remit of the HPC as a regulator of fitness to practise and general complaints body.

**The fitness to practise procedures are aimed at determining fitness to practise. They're not a general complaints mechanism for the public**

Key stakeholder

Complainants reported that they often sought what they perceived to be a lower level of authority to complain to before they would complain to the HPC. Many complaints were escalated because a satisfactory resolution was not forthcoming from the registrant in question, or from the organisation in which they were employed (whether this was within the NHS or a private healthcare provider). There was however, a lack of clarity in defining the HPC's role in dealing with initial complaints from those who were unable to approach a statutory employment body, for example, those who wished to bring a complaint against those working independently or in private practice.

Key stakeholders, complainants, registrants and members of the public all said they would be keen to see a mediation stage in the fitness to practise process. It was felt that often an explanation or apology would be enough to see a satisfactory resolution to many complaints. Some complainants approached the HPC with no intention of entering into a formal fitness to practise process. They simply wanted to open channels of communication with the healthcare professional in question.

**Is there any point where the complainant could have access to an explanation or a reason why something has happened, and if they want to carry it forward from that? If they've gone to complain and they haven't had all of the information**

Registrant, York

Although the HPC was seen to have the primary remit of public protection across all stakeholder groups, there was a secondary (and related) need to ensure that healthcare professionals were practising in an ethical manner.

**They've got to ensure that every registrant is conforming to the codes of ethics and practice. Otherwise all the professions they regulate would be, it would bring them into disrepute and people would get harmed**

Key stakeholder

In relation to ethical behaviour, some participants saw a difference in the regulation of healthcare professionals working in the NHS or another statutory body, and those working independently in the private sector. There was a feeling that the HPC did not demonstrate a clear understanding of the differences between the two. For instance, there was a perception that health professionals working in an organisation



such as the NHS had clear ethical boundaries enforced by the organisation, and there was an expectation that the HPC would regulate ethical transgressions in the same way for independent healthcare professionals. Registrants who had experienced the fitness to practise process felt that the HPC was not upholding such ethical codes and that this reflected poorly on the regulator.

**You have to have pretty high integrity if you're going to work in independently in the community, because you're not backed by the statutory organisations, you have to have unblemished behaviour and you have to be totally ethical. Now you would say that those who work in statutory organisations ought to have those too, but I am quite sure there are many people who hide behind the employers that employ them, they don't have to be taken to account personally whereas when you're working as an independent [healthcare professional], and an independent [healthcare professional] in the community, you're where the buck stops and you have to be above reproach at the end of the day, and they [the HPC] didn't seem to understand that**

Registrant, Complainant

**If you did it in the NHS ... you would have been struck off, I'm sure. So I didn't see any different from a professional basis, to working in private practice**

Registrant, Complainant

## 2.2 Timeframes

The length of time it took to process a complaint had a great impact on complainants' satisfaction throughout each stage of the process. Expectations of the timeframes for the fitness to practise process varied amongst participants who were members of the public, depending on the perception of what the process would be able to do for them. For example, those who felt that the HPC should be able to intervene in their clinical care once a complaint had been made expected a much quicker resolution of the complaint than those who understood the remit of the HPC to be a retrospective investigation and sanction. Whereas some members of the public felt the process should take in the region of four to six weeks, others expected it to last up to a year.

Although the complainants we spoke to as part of this research were not a representative sample, those who had a case that had progressed to a hearing had spent between 18 months to two years bringing a case through the process – longer than they expected when beginning the process.

Employers in particular described how, having brought a case against someone in their employ, it could then be very difficult to continue to work with the person in question and observe the pressure that this put on the registrant who knew that the decision could have a significant impact on their future career.

**It's the impact that waiting for such a long period of time has on the individual practitioner. Because in reality, you've got this hanging over your head for such an inordinate period of time and obviously the ultimate sanction is that the HPC could withdraw your fitness to practise ... which, for such a long period of time, is quite stressful for individual staff members**

Employer, Complainant

An employer with experience of bringing cases before the HPC fitness to practise panel laid out their expectations for the timelines of an ideal service.

**What you expect is that you report somebody to the HPC and then you expect a letter back within at least two to three weeks stating the additional information for what you want to do with that case and everything ... What you then would expect is that a review panel would review that within a timeframe of four weeks ... So within a few weeks you would have roughly an indication that yes, there is a case to answer. You would then expect following on from that, the investigation is out to you within 12 weeks ... That's far more acceptable than 18 months**

Employer, Complainant

One registrant was also concerned by the length of time it took to bring a case to the hearing as they felt that the ability to recall the events surrounding the complaint accurately were impaired by the time elapsed.

**I suppose I didn't anticipate that timescale, because obviously the actual physical ability to remember things that have occurred two years ago is ... is very difficult**

Registrant, Complainant

There was general agreement that with the huge variation in the types of cases that the HPC deals with, and the differing stages of the fitness to practise process, there may be little value in the HPC setting out minimum and maximum timescales for the process. There was some doubt over whether the HPC *should* be clearer about the timescales for the process. One employer felt that this may put people off reporting complaints to the HPC if they knew that it would be something they would have to follow through for the next two years.

**I think some people could be put off by [knowing the timescale in advance] and it might make them think: "Oh it's going to take so long I'll not bother"**

Employer, Complainant

However, one complainant felt that they could have been given further guidance both about the length of the process and the opportunities for pursuing other avenues for

the complaint at the beginning of the process. This was because the length of the HPC process meant that they were unable to pursue a claim through a solicitor within the timeframe to bring a legal complaint for medical negligence. It was suggested that other avenues, or at least the impact of the HPC fitness to practise process on exploring other avenues for the complaint, should be discussed at the beginning of the process. This is particularly important because many HPC complainants also explore resolution for their complaint elsewhere (see 2.1 for further discussion of this point).

There was however, general agreement among all stakeholder groups, both from those who had been through the fitness to practise process and those who had not, that it was more important for complainants to know how long each stage of the process would take as it developed.

**I don't really think you're concerned as long as you can see progress**  
Member of the public, York

Setting out this stage by stage process with a clear indication of the length of each stage is felt to be particularly important as a response to the initial complaint. Several complainants commented that this initial stage of the process had been handled well by HPC, who responded efficiently to the initial complaint. In general, complainants and key stakeholders perceived that the investigative stage was where the process slowed down.

**The trouble is, each case is different ... they have to respond to each case. Well they have to make a decision as to whether to proceed within 28 days I think, and on the whole they do that, but then what happens is that once they've decided they need to investigate. Then it can get [caught] up in the system, especially if the investigation process takes a long time**

Key stakeholder

**The HPC do react initially very quickly, so you send in your correspondence and they either ring you or write to you to say: "We know what your concern is. Can you please do X, Y and Z." From that point of view they're very quick. Certainly compared to the NMC, extremely quick**

Employer, Complainant

It was not simply the overall timeframe that complainants felt exceeded their expectations; some complainants said the process had involved a much greater degree of input from themselves than they had expected. There was a general agreement that much of the process had to be conducted with formal written complaints and statements and provision of documents in order to ensure a robust and evidential audit trail. However, some complainants felt that they did not have a true understanding of the time commitment the whole process would require from them at the outset. This investment of personal time was particularly difficult for those complainants who had not received what they felt was a satisfactory outcome

at the hearing and believed to some extent that they had been 'led on' by the HPC to spend time on a complaint that would not result a satisfactory outcome for them.

There was some discussion amongst registrants about the length of time after an incident that a complaint could be made. It was felt there was a lack of clarity about this.

**How long does a person have to complain if they're making a complaint? If it's five years, would you be able to make a complaint after five years?**

Registrant, London

One registrant highlighted the different timescales for different professions in terms of retaining the evidence of a diagnosis. They felt that it would be difficult to bring a complaint against someone in their profession after a period of six months from the incident, as this was the maximum time that evidence would be kept for. However, it was acknowledged that this was not the case across all HPC-regulated professions.

**You guys have probably all got direct patient contact. We don't actually see the patient. What we see is usually a blood tube, so we keep the blood tubes various lengths of time. Six months would be about it if they want to follow up**

Registrant, London

## 2.3 Conclusions

The HPC was viewed by all key stakeholders as an organisation which exists primarily to protect the public and also to uphold the code of ethics of the professions that it regulates. Members of the public welcomed the fact that the HPC operated as a multi-professional regulator. However, concerns were expressed by registrants and some key stakeholders about whether the HPC is fully able to recognise the differences between each of the professions that it regulates. In addition, regulation of ethical practice was seen to be particularly important for those practising in the independent or private sector.

Views on the acceptable timeframe from complaint to the final hearing were mixed, but tended to be around 3-6 months. This period was dependent on the seriousness of the complaint and what the complainant saw as the remit of the HPC. For instance, a misunderstanding that the HPC was able to intervene in clinical health issues meant that members of the public expected shorter timescales.

# **Making a complaint**

## 3. Making a complaint

This chapter considers stakeholder expectations of making a complaint. It examines awareness of the HPC as a regulatory body among both members of the public and registrants, and how complainants chose the HPC as the organisation to which they submitted their complaint. We outline stakeholder expectations when they referred a complaint to the HPC, and whether complainants felt that the initial contact delivered what they expected.

### Key Findings – Making a Complaint

- Members of the public were confident that they could find out which organisation to approach if they needed to do so. This could be done through other professional or regulatory bodies or by searching using the internet. Awareness of the HPC was currently too low for it to be a first port of call for the public in most cases.
- Registrants reported that they would approach their professional body in the first instance as they would be comfortable that their professional body would be ‘on their side’.
- Making a complaint is not a decision that was ever taken lightly.
- Complaints were reported to be escalated to the HPC after resolution has been sought with the registrant in question, or with their employer.
- There was some confusion as to whether the remit of the HPC would include informal advice and mediation as well as the formal fitness to practise process.
- Some members of the public said they were unaware that in submitting a complaint they were entering a formal fitness to practise process, and there was a sense that the formality and legality of the process raised their expectations about the outcome that would result.
- Submitting a complaint was generally considered to be a straightforward process. Employers said they would welcome more guidance as to how the HPC complaints procedure would fit with internal disciplinary procedures of employers, such as the NHS.

### 3.1 Choosing the HPC

Awareness of the HPC as a regulatory body amongst members of the public in the sample was low. When shown the leaflet describing the role and remit of the HPC,

most expressed surprise that this was not more prominently displayed information that they had been able to find in a healthcare setting. There was a feeling that this information should certainly be drawn to the public's attention were they to have contact with any of the professions in question.

**I think these people, as professionals, should be giving you that information when they first meet you ... If I ever went to meet one of these people, I would think they should give me their card, who they were, and if there's any problems, a number on there. It would be a professional approach**

Member of the public, York

However, it was also evident that members of the public on the whole did not feel that they would have any difficulty finding out whom they should be complaining to if they had a problem with any HPC-regulated professional. Most were comfortable with the idea of searching out information and felt that, though they may not know exactly where to go to complain, they would at least know where to go to be signposted to complain.

**Do the obvious, you go to the General Medical Council and then they say we're sorry, we can't help you but these are the people ... knowing more or less that you are going in the wrong direction, but at least thinking, they are a regulatory body, they should have knowledge**

Member of the public, York

**I 'googled' physiotherapy professional body, something like that**

Member of the public, Complainant

**If you had a relative who was a patient in hospital and you weren't happy with the way they were treated, well then I would speak to the nursing sister on the ward first. I wouldn't go straight to the top**

Member of the public, London

Registrants themselves were aware of the HPC, particularly in terms of their registration. Most registrants had visited the HPC website to check their own registration number and status. However, some registrants still mentioned approaching their own professional body in the first instance before making a complaint to the HPC. In all cases, registrants made a clear distinction between the professional and regulatory bodies.

**They [the HPC] are the people who govern who can [say], who is fit to practice and who isn't ... They [the professional body] are the people who guide us in terms of best practice and so forth. But the HPC are the ones who actually govern our ability to work**

Registrant, Complainant

The reasons for this were twofold: first a legacy from before the creation of the HPC when professional bodies were also the disciplinary body, and secondly arising from registrants saying they felt more comfortable with the professional body – that they are on the same ‘side’.

**First and foremost I phoned [my professional body] and told them what had happened ... I phoned them and they straight away felt it was more a matter for the HPC to deal with**

Registrant, Complainant

Registrants were often seeking advice and reassurance in the first instance by contacting their professional body, rather than their regulatory body. To report another healthcare professional is not a decision taken lightly, and several registrants expressed discomfort discussing this within the workplace with people who would be acquainted with the person. There was also a reluctance to expose the complaint to those that they worked with as it was felt that this could reflect badly on themselves.

**I didn't discuss it with any of the other [healthcare professionals] in the practice because I think it would have been fairly horrific for [my fellow complainant] to have had that exposed to other people**

Registrant, Complainant

The stigma of being a complainant was also something observed by members of the public who have complained. Whilst the complainant may view themselves as the ‘wronged party’ when bringing the complaint, there was a certain degree of embarrassment associated with the action by some complainants.

**It's not something I actually wanted people to know about. I wasn't proud of it. It was a horrible thing to go through**

Member of the public, Complainant

Whilst members of the public in the sample felt that they would easily be able to locate the right person to complain to, discussion with complainants revealed that people very rarely approach the HPC as the first step in lodging a complaint. This was considered to be the last resort, after communication with the individual in question or with their employer had broken down.

**I tried to mediate with them and whether they could explain to me why they'd done what they had done and their reasons, and perhaps I could understand that then, but because they didn't answer any of my questions at all it seemed to me they had something to hide**

Member of the public, Complainant

**I went to a solicitor, and they said, look, before you do this, go to the Health Professions Council**

Member of the public, Complainant



**I made phone calls initially to the Primary Care Team that was looking after [the patient]... the [health professionals] wouldn't actually get back in touch with me, and whenever I phoned there was no one there to speak to me so I didn't make any contact with them via telephone**

Member of the public, Complainant

Whilst this served as a 'filtering' process for many individuals, the wide remit of the HPC, together with the number of private and independent practitioners it regulates, can mean that, for some, approaching the HPC is the only way forward – regardless of the level of complaint.

**It's because this [healthcare professional] is private, so doesn't actually have an employer I could report them to ... if they were employed by a company I could kind of go to their manager and report it up the lines there, but obviously I didn't have that**

Registrant, Complainant

It was also apparent that, for some, complaints to the HPC were often not made to the HPC alone. This is perhaps not surprising as many of the professions regulated by the HPC work in close conjunction with non-HPC registered healthcare professionals, such as doctors and nurses.

**I kicked off a complaint to the Trust, a complaint to the GMC and a complaint to the HPC**

Member of the public, Complainant

Complainants who employed HPC-registered staff, whether or not they were registered with the HPC themselves, described different methods of reporting complaints about staff members to the HPC. Some viewed referral of a case to the HPC as the primary way to seek redress or receive a ruling on the alleged misconduct of a staff member. For others, reporting to the HPC was deemed to be necessary, but secondary and subsequent to the completion of internal disciplinary procedures. In these cases, if the sanctions imposed internally were not felt to be sufficient, and it was felt necessary that some action were taken by the HPC to alert other employers to the issues the particular registrant was facing, then this would be reported to the HPC.

**We have an internal disciplinary. The outcome of that disciplinary is dependent then on whether we report the individuals to the HPC. Sometimes we will report individuals to the HPC if no remedial action is applicable to the individual**

Employer, Complainant

However, according to some employers, this situation could also be undermined by NHS trusts and other statutory body employers. Some employers reported feeling

that they would be encouraged not to report cases to the HPC but to keep dealings with them in-house. Again, there were several reasons for this: the bad publicity which the employer themselves would potentially face by placing the case into the public arena; the time which the employer would have to spend preparing and administrating the case; and pressure from colleagues in defence of the registrant.

**It was quite a difficult situation in that, to be perfectly frank, I didn't get a great deal of advice from my own personal department as to whether I should be reporting it to HPC. But the actual full-time officer who was obviously working on behalf of the member of staff, was saying to me please don't report this, or was sort of suggesting that, can this not be dealt with internally rather than it being reported?**

Employer, Complainant

### 3.2 What do stakeholders expect the HPC to do?

Although most participants in the study understood that the role of the HPC is to protect the public, the actions they expected the HPC to undertake in order to achieve this varied considerably (see Chapter 2.1). In many instances there was a certain reluctance to lodge a formal complaint. Many complainants had already attempted to approach the registrant or their employer to discuss the issue, and the HPC became involved when this contact became difficult or unsatisfactory. One key stakeholder suggested that a form of mediation could perhaps be more effective at resolving these complaints more speedily than a formal fitness to practise process.

**I think what they don't have is the ability for any form of mediation ... A lot of the research on what people want if they make complaints, is they actually want the other party to say sorry, and don't want to go through a very formal process**

Key stakeholder

Whilst it was clear that many felt an independent arbiter was needed in these situations, complainants were unclear as to whether the role of the HPC was to act as a facilitator to this mediation. Some complainants felt that they were being directed through the formal fitness to practise process when in fact they would have appreciated some independent help and advice as the first stage of the process.

**I just thought that they [the HPC] were going to advise me, and maybe they would have some power in making [the registrant] talk to their patients, but it didn't pan out like that at all ... It was taken out of my hands. I wrote them [the HPC] a long letter and then they wrote back and said that they were going to investigate and that they'd instructed the lawyers**

Member of the public, Complainant

Members of the public also voiced an expectation that this informal resolution would be available through the HPC.

**I'd expect there to be some sort of tier [for the] complaints procedure, so that maybe the first step is to try and resolve it more informally**

Member of the public, York

Some members of the public viewed the HPC as a body with a much greater degree of clinical intervention. Some expected that on making a complaint about the standard of care which they had received from a health professional this would result in removal of that professional from practising, resulting in treatment by a different health professional.

**There should be a mechanism within the complaint to be able to shift you over, possibly to somebody else's care**

Member of the public, York

Similarly, some complainants said that they entered the fitness to practise process with the expectation that the HPC would be able to intervene clinically in their situation, rather than to address the fitness to practise of the professional in question.

**I started to travel around and go and see people and, and they didn't know anything about it ... So, therefore I was thinking, well, if the HPC, they will have all the expertise. And when this has been established, they'll be able to say: "Right, you've got to go and see this person" ... I think I thought the HPC were going to sort the whole thing out really**

Member of the public, Complainant

Employers of HPC-registered professionals were, on the whole, well informed about the HPC fitness to practise process. The issue for employers centred on the links between the HPC fitness to practise process and their own internal disciplinary processes. Whilst there was an acceptance that it would be difficult for the HPC to match up with all of the different disciplinary processes amongst the different professions, employers suggested that there was a need for clearer guidance, particularly with regard to the submission of information on the complaint.

**I was able to submit more information to them than I had in my original investigation internally within the organisation, because it hadn't been considered submissible here. But they [HPC] considered it submissible, and I think perhaps more guidance should have been relevant around that as to what I could submit and what I couldn't**

Employer, Complainant

There was also an expectation amongst employers that although the HPC would conduct their own independent investigation, the outcome of any previous disciplinary hearings conducted by the employers of the registrant in question should be noted. One employer particularly, felt that the HPC's national sanctions did not currently work to the same standards as many employer sanctions. They felt that this could undermine the employer disciplinary process and place pressure on local processes to apply all of the comparatively minor sanctions, such as retraining and cautions.

**If I feel concerned that something's wrong then I apply a sanction to an individual or I remove an individual, but the national regulating body don't feel themselves or don't feel it fits sanctions. So in reality what they do is put a doubt in the panel's mind as to whether the original decision was correct**

Employer, Complainant

### 3.3 Conclusions

There was confusion over the remit of the HPC. Some participants thought that the HPC would provide informal advice and mediation in addition to the formal fitness to practise process. In fact, some members of the public said that they were unaware that in submitting a complaint they were entering a formal fitness to practise process. This lack of understanding raised complainants' expectations about the outcome that would result from their complaint.

The act of submitting a complaint was generally considered to be a straightforward process. Employers expressed a desire for clearer guidance about how the HPC fitness to practise process links with their own internal disciplinary processes, and guidance about requirements for the submission of information.

# **Expectations of case handling**

## 4. Expectations of case handling

This chapter explores case handling and management during the fitness to practise process, including expectations of the role and responsibilities of the Case Manager. It examines awareness of the role case management plays in the process, and outlines the various elements of ideal case handling from the perspective of both members of the public and HPC registrants.

### Key Findings – Case Handling

- There was a high level of support for the role of a Case Manager, although there was a low level of awareness of the Case Manager role among complainants who were members of the public. Those complainants who were registrants or employers were more aware of the Case Manager role and had, in most cases, been expecting a Case Manager to be allocated.
- A Case Manager was expected to be a named point of contact and a hub for different sources of information. It was important that they acted as a guide through the process for those who did not have prior experience in this setting. For some participants the idea of personal, face-to-face contact from a Case Manager was important in making the complainant feel valued.
- Participants had differing opinions regarding the neutrality of the Case Manager. Some felt that a Case Manager should take an overview of the process and provide pastoral care to complainants and registrants, guiding them through the complaints journey. However, there were others who would have preferred the Case Manager to be 'fighting for them' – in a similar way to the Presenting Officer.
- Some participants felt that the appointment of a Presenting Officer caused discontinuity in the case management process because someone new became their primary source of contact. Complainants felt that this changed the nature of the complaint to something much more formal and some found this daunting.
- Regular and unprompted contact from the HPC were seen by participants to be the key factors in determining good case management, including updates on the expected timeframes for each stage of the process.
- Complainants stated the desire for an opportunity to view, and respond to, the 28-day response from the registrant in question. In some cases, complainants felt that the inability to do so meant that the complaint was escalated unnecessarily.

## 4.1 Awareness of the Case Manager role

Case management is a central element of the HPC's fitness to practise process. As soon as it is confirmed that the HPC can consider a complaint brought before it, a Case Manager is assigned. This person is the main contact for both the complainant and the registrant and is responsible for handling the case on behalf of the HPC until a final determination is made.

During the course of the study, we spoke to a number of different groups, including members of the public who had limited, if any, experience of a formal complaints process. We were interested, firstly, to get a sense of any awareness of the role of case management in the fitness to practise process, and how this might compare with the experience of those who had actually lodged a fitness to practise complaint.

Discussions amongst the public and registrants who had no experience of complaints processes revealed a high level of awareness of the importance of case management. Participants spontaneously expressed an expectation that complaints of this gravity would require a responsible manager to oversee the process and ensure the case was handled appropriately.

In contrast to the clear and widespread expectation that a Case Manager would take a prominent, leading role in case handling amongst those who had never been involved in a complaints process, the general experience of recent complainants was quite mixed.

Many of the complainants who were members of the public had only a vague recollection of even being assigned a Case Manager. Most could not recall the person's name, or even when and how they first made contact.

**I think we must have done [had a Case Manager allocated], yeah. But I don't think the person I was dealing with was present on the day. I don't think I ever actually met them**  
 Member of the public, Complainant

In contrast, many of the registrant and employer complainants could more clearly recollect their individual Case Manager and specific communication they received during the process. Indeed, most had been expecting a Case Manager to be allocated.

Some of this discrepancy between members of the public, registrants and employers can be explained by their particular professional experience. HPC registrants have, for the most part, at least a basic familiarity with the fitness to practise process. Employers who manage teams of health care professionals in their respective organisations are also more familiar with fitness to practise issues, and have had more experience with the role of case management in local complaint and disciplinary processes.

## 4.2 What does an ideal Case Manager look like?

We asked participants in the discussion groups what an ideal Case Manager would look like. Being **approachable and accessible** was a key theme that emerged from the discussions. Both the public and registrant groups generally felt that they should have a named contact who would be available to discuss the case if and when needed.

**[I would want] a contact name... A personal contact name**  
Member of the public, London

Participants generally expressed a preference for a relatively formal introduction – ideally by letter in the first instance – followed up by an email or telephone call from the Case Manager as soon as possible following the lodging of the complaint.

Participants were also realistic, and seemed to intuitively understand that Case Managers would have a fairly high work load. Several felt that having a named contact would also make the process more efficient and effective.

**You kind of accept that that person may well be dealing with 2, 5, 10, 20 cases, depending on the circumstances. So having that person's name and a specific reference, so that things could be speeded up, you'd know who to go to, and you could immediately say it's case X, and they go: "Right, OK, got you"**  
Member of the public, York

Similarly, all participants were aware, often from their own experience in making consumer complaints, that unless arrangements were in place to ensure continuity, the quality of case handling would be affected.

**So there'd have to be a decent mechanism in place for people going on holiday and leave and some unexpected sickness. You don't want your case to take two weeks to be passed over to somebody else who's already loaded up**  
Member of the public, York

There was also a widespread expectation that if a serious complaint was raised, the HPC would necessarily appoint a responsible individual who would take a prominent, leading role in case handling. The majority of participants expected that their Case Manager would act as both a **primary point of contact** throughout the process, but also more generally that they would act as a kind of **hub for the various information elements** of the process.

**I think I would like them as more of a vessel, to give them the information and they take it on, when they've done the investigating they feed it back down... I might not want to hear what they [the Investigation Panel] actually said in the nitty gritty terms, because I**



**might find it upsetting.... I think I'd want my Case Manager to [follow it up], and just kind of be kept informed on what's going on**  
Member of the public, London

Similarly, there was a clear expectation that the Case Manager would act as a **guide through the process**. A key element of this guidance was that part of the Case Manager's role was to ensure that the complainant or registrant's expectation of the process was as close as possible to what would actually happen.

**Making sure you know how their organisation works, so that they get all the information that you need to give them. Because you don't know how their organisation works, but they do, so [they should be] supporting you**  
Member of the public, York

In general, participants emphasised how important it would be for the Case Manager to ensure that complainants were **fully briefed at each stage** about what would happen next and indicate how long the process might take.

**Well, the Case Manager will have to tell you depending on what the details are, that this is what I am now putting into action and these steps taking because that will then give you an idea at least as to what happens next... And hopefully give you an idea of how long they're going to take**  
Member of the public, London

A number of the registrant complainants – many of whom found the process of lodging a complaint quite difficult and stressful – had quite specific expectations. Some felt that once the initial material had been gathered and provided, the Case Manager would effectively lift the burden from them and **take responsibility for the case** going forward.

**I just felt that HPC would be able to deal with it for me ... I just left it to the HPC really, let them take me through it**  
Registrant, Complainant

These individuals said they felt the HPC's role would be to depersonalise the process by taking complete responsibility for case handling.

**I thought ... I will leave that totally with them, it is now their case not mine. I'm not taking anything personally against this individual, it then becomes a professional matter and I move on**  
Registrant, Complainant

Many members of the general public thought that ideally, the Case Manager would act throughout the process on their behalf, somewhat like an **advocate**.

**I'd want someone who's on my side ... And who's on my side, even if there's somebody who's acting as the prosecution**

Member of the Public, York

This view was also shared widely amongst registrants, a number of whom felt strongly that the process seemed inherently biased against their presumed innocence.

**Well, I'd be thinking, you've registered me; you must've thought that I was capable to practice within your standards. Surely you should assume that I am innocent until proven guilty?**

Registrant, York

Many health professionals expected that as fee-paying registrants, the HPC had a responsibility to support them through the process. A number therefore felt that the role of the Case Manager should act on their behalf.

Notwithstanding this, discussion amongst registrants revealed some awareness of the HPC's role as an impartial regulator whose primary role is to protect the public.

**They [the HPC] are protecting the public, and that's all ... You've got to remember that they're not, the Case Manager is not actually on your side**

Registrant, London

However, the topic of advocacy drew a mixed response, particularly amongst members of the public, who were more of the view that in order for the process to be fair, case handling must be neutral.

**But obviously HPC has got to be a little more, I don't know, neutral, hasn't it?**

Member of the public, York

**That's what the Case Manager needs to be, neutral**

Member of the public, London

Members of the public were also keenly aware of the need for and the importance of balance in the process.

**If you've got a neutral person, which is great, and then you've got an advocate for the complainant, you actually need an advocate for you. Because otherwise it makes [it] rather unfair**

Registrant, London

One of the clearest expectations that emerged with both the members of the public and registrant groups was an opportunity to meet the Case Manager face-to-face, at least initially. Participants said that this would provide them with an opportunity to reassure them that their complaint was being taken seriously.

**I think it would do a lot. I think it would help for people to feel [acknowledged] ... because if someone's going to go to the trouble of setting up some kind of interview either in your home or in an office or somewhere at least you feel something's being done and it is being taken seriously**

Member of the public, London

Some participants said that the needs and concerns of the complainant and the full scope of the complaint would be more readily addressed if the Case Manager had met the complainant personally.

**For me it would be so that they could see what my needs are. If I was elderly I might not feel so comfortable on the phone discussing things, I might need somebody kind of there, in front of me ... to make [it] feel like that at that moment in time your complaint is worth everything**

Member of the public, York

This theme also recurred with those who had not been through the fitness to practise process. Many mentioned how personally devastated they would be if a fitness to practise complaint was brought against them. For these registrants, the possibility of *feeling supported* was a critical dimension in the appeal of personal contact with a Case Manager.

One registrant expressed how they felt the 'personal touch' of a face-to-face meeting would show the HPC valued them as an individual.

**I'd like to see the human, not just hear a voice**

Registrant, York

Others reflected on the felt need to be able to show the HPC a human face, in order to be treated fairly.

**You want to be able to impress on them, you're a normal person. You've done nothing wrong. So you want to feel that they're being fair, I think. That's a big thing. You want to know that they're going to give you a fair trial; it's not a hanging before you've even started**

Registrant, York

In addition to this dimension of professional acknowledgment, other registrants felt that given their experience of the HPC as a somewhat distant registration and regulatory body, face-to-face contact with a Case Manager would give reassurance that the case was being handled efficiently and expeditiously.

**You don't just want, as people have said before, they're a bit abstract [the HPC], they don't bother with us much particularly much**

**... and you want to feel that they actually want to help and want to get it sorted as quickly and as efficiently as possible**

Registrant, York

**Once you've met them it established a rapport which is the foundation for future communications – for example it's possible that after the initial face-to-face meeting you would only need quick, email updates from the Case Manager... a quick mode [of communication]**

Registrant, York

### 4.3 Changing roles in case handling

Where the Investigating Panel determines there is a 'case to answer', the role of the Case Manager in the process may change somewhat in the run-up to the hearing. The HPC will appoint a solicitor (Presenting Officer) to act on their behalf to assist drawing up of allegations against the registrant and to prosecute the case against them.

The Presenting Officer may spend a significant amount of time meeting with the complainant, interviewing witnesses and gathering evidence and usually becomes a significant, if not the primary, point of contact in the process.

We looked at how the change in roles in the advanced stages of the fitness to practise process might have influenced the expectations of complainants in the lead up to the hearing.

A number of the complainants felt that once a Presenting Officer was appointed, it fundamentally escalated the nature of the complaint from a reprimand to something more serious, even criminal, making the complainant much less comfortable with the process.

**I did feel that I no longer knew what was expected of me. They were very clear that I was a witness, and ... it felt more like a blame scenario once [the Presenting Officer] became involved**

Complainant

The role of the Presenting Officer differs from the Case Manager, given that the solicitor is in a position to present his or her professional legal assessment of the possible outcome of the case brought against the registrant.

Nevertheless, a key theme that emerged from the study was that Presenting Officers appeared to build up complainants' expectations prior to the hearing. Where a Presenting Officer strongly indicated that the case against a registrant was progressing very well, and provided assurances of the likelihood of an outcome of "well founded", there was potential to seriously undermine complainants' overall satisfaction with the process. This was seen to be so if the outcome of the case was subsequently "not well founded."

One public complainant recounted genuine shock and bewilderment when the complaint progressed to hearing and the panel found the case “not well founded.”

**They [the lawyer] thought it would be very difficult for this [defendant] to wriggle out of the situation, that [the defendant] had made some very gross mistakes and errors and that really they thought [the defendant] would be struck off**

Complainant

In other cases, raised expectations were reported as being the result of other legal or professional advice the complainant received, either before lodging the complaint or during the process.

A further theme which emerged was discontinuity in case handling. As previously mentioned, the general expectation expressed by all participants was that there would be continuity in case handling, so that complainants could be assured they would not need to re-brief case workers on the nature of their complaint whenever individual managers moved on or case handling changed hands.

A number of complainants felt that this continuity was broken with the appointment of a Presenting Officer in the later stages of the process.

**And then as it progressed on I got another contact as to the legal or barrister or solicitor who was then presenting the case. So we changed over from that one that came out to then take all the information, then you get a dialogue with someone who I'd never met who was on the phone, speaking. So I'd now lost the continuity of everything ... they didn't understand anything of the details of what was going**

Registrant, Complainant

#### 4.4 Is case handling meeting expectations?

In general, participants reported that the role of the Case Manager was a very important one. However, in terms of the overall satisfaction of case handling, the record was mixed. Perceptions of the quality of case handling tended to vary from case to case. Perhaps not surprisingly, expectations were often dependent on the perceived experience and competence of the particular Case Manager in question.

A number of those we spoke to felt they had to chase their Case Manager, much more than they had expected at the beginning of the process.

**They were very difficult to get hold of as well, because they were always out. Or the phone rings and nobody ever answers**

Registrant, Complainant

**I had to do a lot of chasing up really ... It wasn't just sort [of issue where] they might have wrote [sic] a letter and left it at that ... I was**

**having to phone and say: “What’s happening? When are you going to get back to us?” And then it would go quiet again**

Registrant, Complainant

However, one employer we spoke to expressed strong satisfaction with the way in which the Case Manager handled information requests, noting that the Case Manager was proactive in sending out reminders if the necessary paperwork had not been delivered on schedule.

**So the HPC obviously during the process kept in contact and said when you’ve finished the process can you let us have copies of X, Y, and Z, and because the progress from [our end] was quite slow for a variety of reasons, I did get reminder letters**

Employer, Complainant

Registrants and members of the general public generally expected to meet their Case Manager, and felt this personal contact would greatly improve the process. Consistent with this expectation, recent complainants who had met their Case Manager expressed higher levels of satisfaction.

One participant said that although the process was slow, they were content once a rapport had been established between themselves and the Case Manager.

**In fact again I think it took a long time but I think once I’d made a rapport with [Case Manager] I felt it was good, I think it was fine ... I felt once we were in the system, I felt it was well handled**

Registrant, Complainant

A number of the other complainants who had been fairly unhappy about the outcome of their complaint overall, nevertheless recalled the meeting with their Case Manager as a positive experience.

**I thought it was absolute crap, the whole service, apart from one person who came up here to visit us, and they were a representative of the HPC, and they said they would be there at the hearing, if they decided to take it forward. [The Case Manager] was great**

Registrant, Complainant

One employer had not expected to meet the Case Manager personally, but felt that the regular telephone contact received was adequate.

**All the contact I’ve had so far with the HPC ... has been very positive in that they do contact you and if you ring up you ... can always get through to the Case Manager and if you don’t they do ring you back**

Employer, Complainant

Moreover, the HPC compared favourably to the Nursing & Midwifery Council (NMC) in the case of one complainant who had particular experience dealing with them.

**They [the HPC] seem to be less ... bureaucratic; you just phone up and you get put through to the appropriate person quickly and if they're not there they ring you back. That doesn't happen with the NMC**

**Employer, Complainant**

Linked to the desire for the HPC to have a mediation role in addition to a formal fitness to practise process, complainants expressed the desire for an opportunity to view, and respond to, the 28-day response from the registrant in question. In some cases, complainants felt that the lack of opportunity to do so meant that the complaint was escalated unnecessarily. Members of the public also expressed an expectation that a complainant would have the opportunity to do this.

## 4.5 Conclusions

There was a high level of support for the role of Case Manager, but low awareness of this role among complainants who were members of the public. Participants expected that the Case Manager would be a named point of contact, acting as a guide for complainants and registrants throughout the process. However, complainants found the respective roles of Case Managers and Presenting Officers confusing, and therefore felt that the appointment of a Presenting Officer caused discontinuity in the case management process.

An important factor in good case management was seen to be regular and unprompted contact from HPC, including updates on the expected timeframes for each stage of the process. In addition, complainants wanted an opportunity to view, and respond to, the 28-day response from the registrant in question. This ties in with the expectation that the HPC would provide a mediation and conciliation process, prior to the formal fitness to practise process.

# **Attending the hearing**



## 5. Attending the hearing

This chapter considers the fitness to practise hearing; it looks at the format which participants in the study expect the hearing to take and examines the ways in which complainants felt the process differed from their expectations. We also explore issues of transparency in the hearing process.

### Key Findings – Attending the hearing

- The experience of the hearing and its outcome were key to determining how complainants felt about the process as a whole.
- There was an expectation that the hearing would be set up in a formal manner. Members of the public who participated in the study tended to equate the formality of the hearing with the seriousness with which the complaint was being assessed.
- On the whole, there was agreement about the make-up of the panel. Members of the public and registrants expected to see a member of the profession in question (one who understood the particular specialism, including whether in a statutory or private setting) and an independent lay person.
- Those complainants who attended the hearing as witnesses reported feeling uncomfortable with what they had experienced. Most did not feel prepared for the type and length of the questioning that they received.
- Complainants had difficulty understanding why the registrant in question was able to view all the material relating to the complaint in advance of the hearing. Complainants felt that this put them at a disadvantage in preparing for the hearing and therefore affected their perception of the fairness and equality of the hearing itself.
- While key stakeholders acknowledged that the transparency of the process was one of its strengths, registrants and members of the public expressed concerns (albeit different ones) about the way in which all hearings are reported on the internet. Registrants were concerned about the impact on a health professional being publically associated with a complaint, even when the outcome may be no case to answer. Members of the public were uncomfortable with the idea of discussing private health-related matters in a public forum.

## 5.1 What do complainants expect from the hearing?

For those cases that progressed to a hearing, the hearing itself was key to the way that complainants recollected feeling about the case and the process involved. In addition, the hearing itself represents a clear and definable event in the process which is clearly distinguishable as a HPC-driven process.

There was a general acceptance that participants would expect the process to be formal, as there was seen to be an equivalence between 'formal' and 'serious'. Whilst members of the general public who had not complained, when asked how they thought the court hearing would be set out, indicated that they would expect a courtroom-type set up for the hearing, several complainants still expressed surprise at this situation when they entered the hearing.

Registrants were better prepared on the whole, as they were more likely to be familiar with appearing as expert witnesses in trials or at inquests. They also noted that the hearing itself reflected a similar atmosphere to disciplinary hearings held by employers.

**Our disciplinary process is very formal. You know, the management puts their case, you can answer, and it's very formal. I'd assume the hearing will be a similar format**

Registrant, York

Participants also felt that in order to ensure a fair hearing, the process of the hearing would have to be similar to that of a courtroom in terms of opportunities for each side to put their own case forward as well as a clear outcome.

**There needs to be some finality to it, as well, like there is in law ... So a process, you, me, you, me, judgement**

Member of the public, York

There was agreement, on the whole, from members of the public and registrants about the make-up of the panel. All said they expected to see a member of the profession in question on the panel in order to ensure there was an expert opinion on any clinical evidence. There was also felt to be a need for an independent lay person to be on the panel, as the public were anxious that the panel should not consist solely of a profession regulating itself.

**I think I'd want an expert on there, if it was about a speech therapist I'd want a speech therapist there, because they'd understand what I'm talking about. I'd want an independent person, a man off the street, and then I don't know about the other ones**

Member of the public, York

Registrants were also keen to see a professional panel member with understanding of their particular specialism. Registrants also said they wanted the panel to include a person who understood their day-to-day role in detail. For example, an

independent practitioner would expect to see another independent practitioner on the panel.

In several cases, complainants noted that their expectations of receiving a favourable outcome were raised prior to the hearing by their legal counsel. This was mentioned in relation to both HPC-appointed lawyers and private lawyers. Some complainants felt that setting expectations in this way, whilst perhaps beneficial when preparing for the hearing, could make an emotional experience particularly difficult if the complainant felt that the ultimate outcome was very unsatisfactory.

**The lawyer acting for the HPC said... I've been through this before, I don't think [the defendant] will be struck off, but they will get some sort of reprimand and will have to, possibly have to do some retraining, that was [the lawyer's] feeling**  
Complainant

## 5.2 Does the hearing match expectations?

Whilst many participants said that they would expect a formal hearing, there were complainants who said that the setting was much more formal than they had been led to believe. Complainants said that feeling well-prepared for the hearing was something they considered very important to help them remain as calm and relaxed as possible during the proceedings.

**I was expecting it to be a little bit like an interview panel where they sit behind a desk with their notes and they ask me a few questions. I didn't expect it to be set up like a mini courtroom**  
Registrant, Complainant

There was also a lot of support for the 'courtroom' format of the hearing. Formality was much associated with the complaint being taken seriously, and this was something that impressed several complainants.

**I wanted it to be legal, I did not want this to be minimised and I thought the court hearing was, apart from the outcome, absolutely perfect**  
Registrant, Complainant

Some complainants were, however, confused by the remit of the legality of the 'courtroom set-up' of the hearing. When complainants, and indeed many other participants, described the fitness to practise process, and the hearing in particular, much of the language surrounding this was very 'legal'. Complainants discussed the hearing as a 'trial' and made reference to the 'prosecution' and 'defence'. Whilst this is to an extent appropriating the language that they felt best fits the setting of the hearing, participants expressed some confusion over the legal status of the HPC hearing.

**I don't know what the legal status of an HPC court is, whether it has to, whether it's under the regulations of the Law Society or its own**

## **regulations and whether those regulations of the Law Society can be applied to the rules of an HPC Council hearing**

**Registrant, Complainant**

For some complainants, the formal set-up of the hearing presented a contrast to the way that the case was conducted. There was a feeling that although the set-up was very formal, the hearing itself was not conducted in a professional manner and the way in which the pack of evidence was presented was disorganised.

**It all suddenly descended into being very unprofessional. I'd taken an oath. It was all very formal and then suddenly they're all talking amongst themselves ... it was very uncomfortable**

**Complainant**

The part of the hearing that was most often mentioned by complainants as differing from their expectations was the questioning of the witnesses by the registrant's counsel. Although many said that they approved of what they saw as the courtroom format, complainants, who were very often witnesses at the hearing, were surprised by the style of questioning they received when presenting their evidence.

**[The registrant] walked in with their representative, who was a very aggressive solicitor, very aggressive. And they absolutely, how can I say? Steamrolled me. And I had no protection at all from either the assessor, the panel, or the solicitor who was acting for the HPC**

**Registrant, Complainant**

One complainant described not feeling prepared for the questioning received and not being sure what the rights of a witness in such a hearing are.

**I could have said I can't answer these questions but I couldn't, when you're so intimidated in there, I would have thought that it would have been up to counsel, my representative to say the witness does not have to do this or the witness does have to do this. I have no idea what my rights, my rights at that stage had gone totally because I'm now under the spotlight, under oath**

**Registrant, Complainant**

Several health professionals who had attended hearings as witnesses mentioned that they felt that they had been 'put on trial' themselves. Although it was noted that the legal assessor did try and halt questioning in some cases, some health professionals reported feeling uncomfortable by what they perceived as the registrant's solicitor and the panel themselves calling into question the fitness to practise of the complainant.

**They asked me at the end since I hadn't signed for the treatment I got ... did I, in my role, get people to sign anything. I just don't know**

**what the relevance of my practice is to [the defendant's], because I wasn't the one on trial**

Registrant, Complainant

Several complainants also said that the questions that they were asked when acting as a witness were not what they had expected. Whilst they submitted specific complaints to the HPC, several complainants mentioned that the questioning in the hearing did not seem structured around the statements that they had provided.

**The one thing I wasn't expecting was the way the witnesses are spoken to. I found that quite strange ... it's not like a courtroom principle, it's like a free for all in reality, there's no structure to it**

Complainant

One complainant described how they felt the specialist in the professional area did not seem to have an understanding of the area of the profession in which both the complainant and the registrant practised.

**Although there was [a healthcare professional from the relevant specialism] on the panel they didn't seem to understand what we meant by the [professional] input we were having into client in the community on the contract. They didn't seem to really understand the difference between a private [healthcare professional] and a statutory [healthcare professional] and they didn't seem to understand the difference between working in the hospital and working in the community**

Registrant, Complainant

Disclosure of information at and before the hearing was also an issue for several complainants. Whilst this is a legal issue and the HPC are obliged to work within the legal framework, most complainants were left with a degree of confusion about why this takes place and were concerned about the potential implications they could see on their hearing. Complainants felt that the procedure favoured the registrant in question; because they were unable to know in advance any points that the registrant would raise, they felt that they were unable to prepare and were unable to address these points in the hearing or to correct perceived inaccuracies. This was of particular concern when a complainant felt that their own professional integrity had been called into question. There was a perception that complainants needed to fully understand the procedures and the impact of the procedures on the hearing.

**The lawyer actually told me that whilst the registrant had read everything I'd written, I wasn't allowed to see what they'd written, that is the law, so automatically one is at a disadvantage**

Complainant

The practicalities of the hearing also caused concern for some complainants. Whilst there was an appreciation that it could be difficult to predict the length of the hearing,

complainants felt in some cases as though they were treated simply as witnesses to the case and not as people with a vested interest in the outcome of the case. Although complainants may have been briefed on the role they would play in the hearing, there was a desire to be more fully informed about how the hearing would operate and also to attend the outcome of the hearing. As complainants are in fact permitted to attend the outcome of the hearing, this is clearly an area of misunderstanding that needs to be addressed. .

**We only discovered when we were given our name tape passes that they were for two days. We didn't know it was going to be over two days and we all looked a bit horrified because most of us had got other things happening the following day**

Registrant, Complainant

There were similar reports from complainants who were unhappy that their hearings had unexpectedly run over into two days. Whilst there was an agreement among complainants that it could be very difficult to predict the length of a hearing before it began, one complainant described how the contingency plan for the longer than planned hearing resulted in the panel sitting a significant time after the end of the hearing. This caused the complainant to feel uncomfortable about the outcome of the case, as the panel discussion did not appear to be related to the hearing itself, and it also denied the complainant a sense of closure.

**I wasn't happy having that big gap between the two [hearings]. Because we had the hearing where I was interviewed in the morning and the registrant was interviewed in the afternoon and then the panel didn't sit until [some months later] and you're going to tell me that they can really remember everything**

Complainant

The location of hearings was raised by several complainants, although there was a general understanding that nothing was going to be convenient for everyone. One complainant explained they were concerned with the reason that was given for the location selected, rather than the actual location itself. There was a feeling that the hearings were arranged according to the convenience of the HPC and with little stated consideration for the complainants and witnesses. This did not make the complainant, who was giving up their time voluntarily, feel like a valued part of the process.

**I did query [the location of the hearing] and the response was it's easier for the panel. And I did wonder why they didn't choose a panel who could do it close to where the case was**

Registrant, Complainant

Overall, complainants found the hearing a difficult but necessary process to go through. Whilst they realised that the purpose of a hearing was to assist the HPC in reaching a decision, the hearing was an emotional culmination to the fitness to

practise process for many complainants – something in which they had invested time and emotional energy.

**I think they have to know that you don't initiate this sort of hearing on a whim. People think long and hard before doing this. And it would have been nice to get a sense of that back, and get a sense that they appreciate it's not easy**

Registrant, Complainant

### 5.3 Transparency

Details of all of the HPC hearings to be held and, subsequently, the outcome of those hearings are all published on the HPC website. Details of upcoming hearings and sanctions placed on healthcare professionals are circulated around key stakeholders and employers on a regular basis. This transparency with regard to the hearings was welcomed.

**They're transparent. I know that registrants are not comfy with the hearings being in public, but in a way I don't actually have a lot of sympathy with that ... I think it has advantages, particularly for the person making the complaint ... It gives an appearance of more openness and transparency**

Key stakeholder

However, as the statement above acknowledges, both registrants and members of the public had some concerns about the transparency of the process. For registrants the key concern was whether the hearing information should be available on the website before the outcome to the hearing was concluded. Registrants were unhappy that their names would be publically associated with the complaint even when there was no case to answer.

**But should it be on the website before it's founded?**

Registrant, York

**What is the point of putting more information on the website for everyone to see, especially if you're cleared?**

Registrant, London

Although complainants were aware of the public nature of the hearing before attending, one registrant explained the concerns surrounding the transcript of a witness statement being available publically. Making a complaint can be something that complainants feel a degree of shame and embarrassment about. Difficult as the witness process can be for them, knowing that everything they say is being taken down and made public is a uncomfortable concept and needs to be addressed in advance of the hearing.

**I didn't expect for my statement to be word for word written down and put on the internet, because that I didn't like. Because when you're uncomfortable you say more that you intend to and it wasn't an atmosphere that makes you comfortable**

Registrant, Complainant

Members of the public primarily had concerns about the public status of the hearing itself. The fact that the media were allowed to be present raised problems for some members of the public particularly, as they felt they would be uncomfortable discussing private health-related issues in a public forum.

**I don't think it's right that the hearings can be held in public ... it says including members of the press can attend and I don't believe in that either, because the press can twist everything and build it up out of all proportion ... Especially if you're going to be bringing up people's medical histories**

Member of the public, London

## 5.4 Conclusions

The experience of the hearing and its outcome acted as a key determinant in how complainants felt about the fitness to practise process as a whole. The formal manner of a hearing was expected and tended to be viewed as an indication of the seriousness with which the complaint was being assessed. Members of the public and registrants expected that the hearing panel would include a member of the profession in question – one who understood the particular specialism, including whether in a statutory or private setting – and an independent lay person.

Complainants who had attended the hearing as witnesses reported feeling uncomfortable with what they had experienced because they felt that they were unprepared. Complainants also expressed confusion about why the registrant in question was able to view all the material relating to the complaint in advance of the hearing, and this affected their perception of the fairness of the hearing itself. There was uncertainty among registrants and members of the public about the reasons for the way in which hearing outcomes are reported on the internet: registrants expressed concerns about the impact on the reputation of a health professional, while members of the public were uncomfortable about discussing private health-related matters in a public forum.



# **After the decision**

## 6. After the decision

Once the panel have heard all the evidence brought about the case, they retire to make a decision on whether the allegation is proven. Where the panel feel the allegations have no grounds or the case is not proven, they will say that it is “not well founded”. Alternatively, if the case is proven, it is said to be “well founded.” Following this, the panel can make any number of recommendations (including the possibility of no further action). This chapter explores complainant expectations about the delivery of the final outcome as well as expectations around appealing the panel’s decision.

### Key Findings – After the decision

- In presenting the outcome, participants felt that it was key for the HPC to explain the decision that had been reached and provide an account of how the panel had reached the decision.
- There was general agreement that an appeals process should be in place for complainants to pursue if they disagreed with the decision.
- There was confusion among complainants about the possibilities for appeal. Some said that because the HPC would not overturn a decision, they felt that any kind of appeal would be pointless. This indicates a need for better information about the consequences of applying for a judicial review of the decision, and how to go about this.

### 6.1 Explaining the reasons for the decisions reached

Perhaps unsurprisingly, the most important finding that emerged was that whatever determination is reached by the HPC at any stage of the process, the **reasons for the decision should be fully explained** to all the interested parties.

**I think one of the things people like when they get decisions and outcomes and verdicts, is the reasons. So they [the HPC] should provide these; whoever decides the outcome should give reasons for their decision.**

*Member of the public, York*

Many participants wanted an appeal in order to receive a full explanation of the decision-maker’s recommendation. Such an appeal was felt to provide complainants and registrants with the reassurance of knowing the reasoning behind a decision. Participants also felt that knowing how and why a panel had reached a decision would give them the opportunity to fully assess whether to appeal or take the process further, if they were dissatisfied with the recommendation.

**It gives you a chance to understand it [the decision] and also, if you still feel it's not necessarily the right decision to some extent, you can then see how they're arrived at it, and decide whether there is an option for taking it further, because there has been a flaw in something.**

Member of the public, York

Many participants felt strongly that the explanations of the decision would only be satisfactory if they were in writing – this would enhance their ability to seek further advice.

**Then you can understand it, or go back to your Case Manager or to one of these other bodies, PALS or Citizens Advice, and say this is what it says, can you explain it to me? Can you tell me what my options are?**

Member of the public, York

A further concern arose in connection with the issue of raised expectations (see Chapter 4) and the communication of the decision of the panel. Where complainants' expectations had been shaped so that they were not expecting a particular outcome, the final announcement could come as quite a surprise.

**But then suddenly it was like, no, the panel decided there wasn't a case to answer and that, that's it, it's over and done with.**

Member of the public, Complainant

This observation reinforces a general point that emerged from a number of the discussions with participants. Registrants and complainants shared a common concern about being 'abandoned' by the process as soon as the final decision was announced. This was especially true in cases where the complaint has involved a significant degree of trauma for any of the interested parties.

In particular, many of the participants expressed an expectation that their Case Manager would be available to contact while awaiting the decision from the panel.

**I think it would be nicer if the Case Manager was there with a hearing, for the Case Manager to say that during the time of you waiting for the decision to come back we've still got all the details, we haven't forgotten about you, you're always welcome to kind of give us a ring**

Member of the public, York

## 6.2 Expectations of an appeals process

It is possible for a registrant to apply for a judicial review of the panel's decision in circumstances where he or she thinks it was wrong or unfair. Although the panel's decision is final and cannot be reviewed by the HPC, registrants may refer the case to the High Court (or the Court of Session in Scotland) on appeal. The Council for Healthcare Regulatory Excellence (CHRE) may also refer the HPC's final decision on a fitness to practise case to the High Court (or the Court of Session) if they believe the decision was incorrect.

All participants expected an appeals process of some kind to be in place. In reality, complainants have no right to appeal the decision being made and they are limited to applying for a judicial review of the decision. However, a number of the complainants interviewed were dissatisfied with the lack of a route of appeal open to them.

**Our solicitor told us we wouldn't be able to appeal, their decision was final. And I would have expected to take it further ... We came away feeling very let down really, very let down. And the fact is that if there'd been an appeal process I'd have gone for it ...**

Registrant, Complainant

**Basically what it [the final letter] was saying was that the matter's now closed but if I want to take it to the Parliamentary Health Ombudsman Service. So again that's just passing the buck...**

Complainant

Some complainants felt that any kind of appeal would be pointless because the HPC would not overturn a decision. This indicates a need for better information about the consequences of applying for a judicial review of the decision, and how to go about doing this.

## 6.3 Conclusions

In being presented with the outcome, participants would like a clear explanation from the HPC about the decision reached and an account of how the panel had reached that decision. Complainants expressed confusion about the possibilities for appeal and misunderstood the consequences of applying for a judicial review of the decision.

# Recommendations

## 7. Recommendations

On the basis of this research, we put forward five sets of recommendations for consideration by the HPC:

### Providing a road map

- Provide complainants with a chart that sign-posts the key points in the process, all potential outcomes and the likely length of time involved at each stage. This should be provided initially upon submission of complaint, and also just before various key stages throughout the process, as a reminder. The aim of such a road map would be to clarify the steps in, and potential outcomes of the process, and the lengths of time involved. It would also respond to any expectation which complainants may have.
- At the time of issuing a reminder before any key stage in the process, complainants should also be reminded of the likely timeframes for their case. This is to ensure that complainants are clear about what happens next and how long it may take.
- Clarify the length of time after an incident occurs in which complainants are able to lodge their complaint.
- Do not assume any legal knowledge on the part of the complainant. It is particularly important to use plain English, rather than jargon.

### Information at point of initial complaint

- Provide clearer information about the difference between complaints resolution and the fitness to practise process.
- Make a point of showing complainants the list of other organisations that they may contact for advice and support about their complaint.
- Stress that the HPC fitness to practise process will only investigate issues of fitness to practise, and that it will not resolve clinical healthcare issues for complainants.
- Be explicit to complainants about any impact that their placing of a complaint with the HPC will have on other avenues for resolution. For example, whether they are permitted to submit a complaint (e.g. against a HPC registrant) with two organisations concurrently – e.g. the HPC and the Police, or the HPC and their Primary Care Trust.
- Provide some indication to complainants of extent of the undertaking – i.e. the investment of time and energy that complainants will need to make – in an unbiased way.

## The HPC's remit and the fitness to practise process

- Investigate opportunities for the HPC to provide a mediation and conciliation process, prior to complaints entering the formal fitness to practise process.
- Investigate the possibility for complainants to have a right of reply following the 28-day response from the registrant in question.
- In bringing together the panel for a hearing, consider the specialism of the registrant in question (including whether this is in a private or statutory setting) and match the professional panel member accordingly.

## Communications for registrants, employers and key stakeholders

- Provide communications about ethical practice and whether this is part of fitness to practise regulation.
- Provide communications to registrants and employers about how the HPC upholds ethical codes of practice amongst independent practitioners.
- Be explicit about the differences in standards of competence for each profession, as well as generic standards.
- Improve guidance for employers about requirements for the submission of information on complaints and how the HPC fitness to practise process links with the internal disciplinary procedures of employers.
- Explain the reasons behind the details of all hearings being provided on the internet.

## Case handling

- In communications with or briefing of the complainant, we suggest referring to the named point of contact as the complainant's 'Case Manager'. The role of the Case Manager should be clearly defined.
- Be explicit that the Case Manager is neutral in their role.
- Investigate whether it may be possible to offer complainants the opportunity to meet their Case Manager face-to-face.
- Provide complainants with a letter from their Case Manager, introducing the Presenting Officer. It may be useful at this point to explain the differences between a Case Manager and a Presenting Officer, and why there are two people involved.
- Provide Presenting Officers with guidance on how to prepare complainants for a hearing, including the formality, and the type and length of questioning that complainants and witnesses can expect. Also forewarn complainants that hearing cases may take longer (or, in fact, less time) than the allotted number of

days, and correct the misunderstanding among complainants that they are not permitted to attend the outcome of the hearing.

- In presenting the outcome, provide an explanation of the decision that was reached and an account of how the panel had reached that decision.
- Improve the information that is available to complainants about the possibilities for appeal, why the HPC will not overturn a decision, the consequences of applying for a judicial review, and how to go about applying for one.



# Appendices

# Appendix 1: Invitation to Recent Complainants

X September 2009

Dear XXX

The Health Professions Council (HPC) has recently commissioned Ipsos MORI to conduct a piece of research regarding complainant expectations.

I am aware that you made a complaint to the HPC in DATE.

The aim of the research is to examine complainants' expectations of both the service and the outcome when they make a complaint to a regulatory body. , More detailed information on this will enable the HPC to develop appropriate and relevant literature for complainants. The overall aim of the research is to determine the expectation of complainants in terms of:

- The role of the regulator;
- Initial expectations;
- Case handling; and
- Outcome.

I am writing to you to ask whether you would be willing to be included in the group of potential respondents from which we will randomly select people to take part in the research.

The research would involve taking part in an in-depth telephone interview with a researcher from Ipsos MORI. It is envisaged that the **interview will last 30-40 minutes** and will cover your experience of HPC's fitness to practice complaints process. As a thank you for taking part, **we would make a donation of £30 to a charity of your choice**.

Ipsos MORI is an independent research organisation, operating according to strict industry codes of practice. **Your answers will be treated in the strictest confidence** unless you specifically wish to be identified. In the report that Ipsos MORI prepares for the HPC, individual responses will be analysed and presented anonymously alongside those of many others.

If you would be willing to take part in this research I would be grateful if you could contact Zoe Maguire at HPC **to confirm no later than 9<sup>th</sup> October, 2009**. Ipsos MORI will then be in touch with you to arrange a time for an interview that is convenient for you.

Her contact details are as follows:

e-mail:

telephone:

post:

We do hope you will participate in an interview, and we look forward to your valued feedback.

Yours sincerely

Kelly Johnson

**Director of Fitness to Practise**

## Appendix 2: Topic guides

### Interviews with recent complainants

#### HPC Fitness to Practise Complaints Research: Interviews with recent complainants

##### Objectives

- To explore what it is that complainants expect both in terms of service and outcome when they make a complaint to a regulatory body.
- To determine the expectation of complainants in terms of:
  - The role of the regulator
  - Initial expectations
  - Case handling
  - Outcome.
- To establish recommendations on suggestions to improve existing information and case handling to inform the development of future HPC communications strategies.

##### Outline of the research programme

- 18 depth interviews (via telephone) with people who have recently been through the process of making and following up a complaint about the fitness to practise of an HPC registrant. We are interviewing three kinds of complainant: members of the public, employers and other HPC registrants. The interviews will be conducted from 26 October to 20 November 2009.
- We are also holding discussion groups with members of the public and HPC registrants in November to gauge expectations about the complaints process and expected fitness to practise responsibilities of a regulator. In addition, we are conducting depth interviews with senior stakeholders in the HPC fitness to practise complaints process to gather feedback about the complaints process.

Interview sections	Notes	Approx timing
1. Introduction	Introduces the research and outlines the 'rules' of the interview	2 mins
2. Background: what prompted you to make a complaint?	To explore where the complaints process began and what kinds of options the complainant thought about before making a formal complaint	7 mins
3. Starting the ball rolling: gathering information and approaching the HPC	To explore how the complainant approached the HPC and what their expectations of the outcome were at this point	7 mins
4. The complaints process and outcomes	To gauge expectations of the process itself and how the reality squared up with complainant expectations and explore whether information	15 mins

	that the HPC provided was helpful.	
5. Conclusion		2 mins

Discussion Areas	Notes
<b>1. Introduction</b>	<b>2 mins</b>
<p>Thank complainant for agreeing to participate.</p> <p>Hello, my name is... from Ipsos MORI, the independent research organisation. Thank you for agreeing to speak to us about HPC and the fitness to practise complaints process. HPC has commissioned Ipsos MORI to conduct this research in order to assess and improve this process.</p> <p>The aim of the research - exploring complainants' expectations of the complaints process and the outcome when they make a complaint to a regulatory body in terms of:</p> <ul style="list-style-type: none"> <li>▪ The role of the regulator;</li> <li>▪ Initial expectations;</li> <li>▪ Case handling; and</li> <li>▪ Outcome.</li> </ul> <p>The <b>interview will last 30-40 minutes</b> and will cover your experience of HPC's fitness to practise complaints process.</p> <p>There are no right or wrong answers – we are interested in what you have to say.</p> <p>Stress confidentiality - MRS codes of conduct, anonymity of participants will be preserved and verbatims not attributed unless specifically wish to be identified. In the report that Ipsos MORI prepares for the HPC, individual responses will be analysed and presented anonymously alongside those of many others.</p> <p>Ask participant for permission to record. Explain that recording will be only used to help us when it comes to report writing.</p>	<p>Introduces the research and outlines the 'rules' of the interview (including those we are required to tell them about under MRS and Data Protection Act guidelines)</p> <p>Emphasises that the focus of the interview will be the complaints process and how that might be improved</p>
<b>2. Background: what prompted you to make a complaint to the HPC?</b>	<b>7 mins</b>
<p>Can you <b>briefly</b> talk me through your 'journey' through the complaints process? What were the main steps / stages in your</p>	<p>To build a picture of the complainants'</p>

<p>journey?</p> <p>EXPLAIN THAT YOU WILL DISCUSS THESE STAGES IN MORE DETAIL LATER IN THE INTERVIEW</p> <p>Could you <b>briefly</b> tell me a little bit about the background to your complaint: What prompted you to make a complaint? How did you go about deciding to take action to make a complaint? What were the main things that influenced your thinking and your eventual decision?</p> <p>Did you speak to others about making a complaint? Family members, spouse / partner, friends / other healthcare professionals / colleagues? The professional themselves that you made a complaint against?</p> <p>Had you ever taken part in a formal complaint process before this? How did it compare?</p> <p>Why did you complain to the HPC rather than any other type of organisation? How did you find out about the HPC? How did you contact HPC to make your complaint?</p>	<p>journey</p> <p>To explore where the complaints process began, what kinds of options the complainant thought about before making a formal complaint</p> <p>To identify the reasons why they chose the HPC</p>
<p><b>3. Starting the ball rolling: gathering information and approaching the HPC</b></p>	<p><b>7 mins</b></p>
<p>How did you know what you needed to do in order to make a complaint? How did you go about finding that out?</p> <p>What were your expectations <b>about the outcome</b> when you made the complaint? PROBE Disciplinary action? Compensation? An apology? Why did you think this?</p> <p>What were your expectations about how the HPC would deal with your approach? PROBE Expecting to be stuck in a queue loop? Put through to the correct person / department? Treated seriously / appropriately / sensitively?</p>	<p>To explore how the complainant approached the HPC and what their expectations of the outcome were at this point</p>
<p><b>4. The complaints process and outcomes</b></p>	<p><b>15 mins</b></p>
<p>FOR EACH STAGE OF THE COMPLAINANTS' JOURNEY PROBE ON EXPECTATIONS, INFORMATION, CONTACT AND OUTCOME:</p>	<p>At each stage of the complaint process establishing what</p>

<p><b>Expectations:</b> What were you expecting? Why were you expecting that? Where had you got your information from? How did your expectations compare with what actually happened? What would you have liked to have been done differently at that stage? Why?</p> <p><b>Information:</b> What information were you provided with by the HPC at that point? How helpful was the information you received? Why / why not? If not, what information would have been helpful? Could anything have been made clearer in the information you received? Would you have liked more / less information? In what areas?</p> <p>FOR REGISTRANTS, PROBE Information about cases that may result in action being taken? HPC's powers? What the HPC can't do? Determining whether there is a case to answer?</p> <p><b>Contact:</b> What contact did you expect from HPC? What did you expect in terms of updates on progress? And were your expectations met? If not, how could HPC have made it clear about the levels of contact and the progress updates that you would receive?</p> <p>Did you expect to receive anything from the professional that you made the complaint about? What did you expect? Would that have been helpful to you? Why?</p> <p><b>Outcome:</b> Were you satisfied with the outcome at that point? Why/why not?</p> <p>Did you have any expectations about the <b>timeframes</b> involved in your complaint? How long were you anticipating the process would take? PROBE Weeks? Months? Longer? Why did you think this? And how long did it actually take?</p> <p>Were you aware beforehand that a <b>case manager</b> would be assigned to you? If so, what were your expectations of that</p>	<p>their expectations were, how the expectations matched their actual experience and how information from and contact with HPC impacted on this.</p> <p>Examining specific issues relating to the complaints process</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>person's role? PROBE Main point of contact? Source of information? Providing guidance? Why?</p> <p>What <b>information did you think you would need to provide</b> to the HPC? PROBE Statement of complaint? Evidence (e.g. written records, photographic evidence)? Why? And how did this compare with what you actually needed to provide?</p> <p><b>Role of the investigating committee</b> (meets in private to consider whether HPC needs to take any further action)</p> <p><b>Role and powers of the panels</b> (Conduct and Competence Committee, Health Committee, Investigating Committee)</p> <p><b>Public v private elements of the process</b></p> <p><b>Powers of the HPC</b> – requiring individuals/organisations to provide information/documents, requiring witnesses to attend hearings</p> <p>FOR THOSE WITH CASE TO ANSWER:</p> <p>Thinking about the <b>hearing</b> itself. What were you expecting it to be like? PROBE Courtroom? Formal / informal / severe / relaxed? How did you feel before the hearing? PROBE Nervous? Why/why not? What were you expecting the <b>final decision of the panel</b> to be? PROBE That the registrant would be struck off? Punished or sanctioned in some way? What, if anything could HPC do to improve the clarity and quality of the information they gave you about the hearing?</p> <p>How satisfied overall were you with the complaints <b>process</b>? Why is that? And thinking about the <b>outcome</b> of the complaints process, how satisfied would you say you were? Why is that?</p> <p>How satisfied overall were you with the <b>information you</b></p>	<p>Gauging complainants' overall levels of satisfaction with the process, outcome and information provided</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------



<b>received</b> from HPC throughout the complaints process? Why?	
<b>5. Conclusion and Wrapping up</b>	<b>2 mins</b>
<p>To conclude, what one thing do you feel might have made the process overall more like what you expected?</p> <p>Would you like to make any further comments about the complaints process?</p> <p>This research is being conducted on behalf of the Health Professions Council. They are interested in examining the HPC fitness to practise complaints process and how the system might be enhanced or improved. Anything you have said will be kept confidential.</p> <p>THANK AND CLOSE</p>	

## Interviews with key stakeholders

### HPC Fitness to Practise Complaints Research: Interviews with stakeholders

#### Objectives

- To explore what it is that complainants expect both in terms of service and outcome when they make a complaint to a regulatory body.
- To determine the expectation of complainants in terms of:
  - The role of the regulator
  - Initial expectations
  - Case handling
  - Outcome.
- To establish recommendations on suggestions to improve existing information and case handling to inform the development of future HPC communications strategies.

#### Outline of the research programme

- 18 depth interviews (via telephone) with people who have recently been through the process of making and following up a complaint about the fitness to practise of an HPC registrant. We are interviewing three kinds of complainant: members of the public, employers and other HPC registrants. The interviews will be conducted from 26 October to 20 November 2009.
- We are also holding discussion groups with members of the public and HPC registrants in November to gauge expectations about the complaints process and expected fitness to practise responsibilities of a regulator. In addition, we are conducting depth interviews with senior stakeholders in the HPC fitness to practise complaints process to gather feedback about the complaints process.

Interview sections	Notes	Approx timing
1. Introduction	Introduces the research and determines level of attribution	2 mins
2. Knowledge and understanding of the fitness to practise complaints process	To establish knowledge and understanding of the HPC fitness to practise complaints process	4 mins
3. Expectations of a fitness to practise regulator and views on how well the fitness to practise process performs	To gauge expectations about what the roles of a fitness to practise regulator should be and to explore views on the strengths and weaknesses of the fitness to practise process	7 mins
4. Information for complainants and registrants	To identify opportunities for improving the information that HPC provides to complainants and registrants	10 mins
5. Support for complainants and registrants	To identify opportunities for improving the support that HPC provides to complainants and registrants	5 mins
5. Conclusion	Sum up and close	2 mins

Discussion Areas	Notes
<b>1. Introduction</b>	<b>2 mins</b>
<p>Thank stakeholder for agreeing to participate.</p> <p>Hello, my name is... from Ipsos MORI, the independent research organisation. Thank you for agreeing to speak to us about HPC and the fitness to practise complaints process. HPC has commissioned Ipsos MORI to conduct this research in order to assess and improve this process.</p> <p>The aim of the research - exploring expectations of the complaints process, and specifically in terms of:</p> <ul style="list-style-type: none"> <li>▪ The role of the regulator;</li> <li>▪ Initial expectations;</li> <li>▪ Case handling; and</li> <li>▪ Outcome.</li> </ul> <p>The <b>interview will last 20-30 minutes</b> and will cover your views and opinions on how HPC's fitness to practise complaints process could be improved, especially the support and information that is provided to both complainants and registrants.</p> <p>There are no right or wrong answers – we are interested in what you have to say.</p> <p>Explain confidentiality and MRS guidelines - of course, anything you say will be kept completely confidential unless you want any comments to be attributed to you. What level of attribution would you like? Can we quote you directly, their organisation or would you like total anonymity?</p> <p>Ask participant for permission to record. Explain that recording will be only used to help us when it comes to report writing – transcribe for quotes, no detailed attribution.</p> <p>Could you just state your name and job title and tell me a little about what you do please?</p>	<p>Introduces the research and outlines the 'rules' of the interview (including those we are required to tell them about under MRS and Data Protection Act guidelines)</p> <p>Emphasises that the focus of the interview will be the complaints process and how that might be improved</p>
<b>2. Knowledge and understanding of the fitness to practise complaints process</b>	<b>4 mins</b>

<p>Has your organisation had any involvement with HPC's F2P complaints process?</p> <p>What two or three words would you use to describe that process? PROBE Why do you say that?</p> <p>How well would you say you know the HPC and their F2P activities? PROBE FOR DEPTH OF KNOWLEDGE:</p> <ul style="list-style-type: none"> <li>▪ What are their objectives?</li> <li>▪ Concrete examples of what they do?</li> </ul> <p>IF KNOWLEDGE IS LIMITED what would you like to know about the HPC's F2P activities? How would you like to get information about F2P from HPC?</p> <p>Can you give me any specific examples of factors that have had a positive / negative impact on their F2P reputation?</p> <p>Is there anything you think that the HPC could be doing differently when it comes to their F2P activities?</p>	<p>To gauge overall knowledge and understanding of HPC's FTP complaints process, as well as perceptions of the process.</p>
<p><b>3. Expectations of a fitness to practise regulator and views on how well the complaints process performs</b></p>	<p><b>7 mins</b></p>
<p>What do you think the priorities of a F2P regulator should be? PROBE FOR</p> <p>And what do you see as the HPC's role in the F2P process? Why?</p> <p>What, if anything, <i>should</i> they be doing that they're not currently doing? Why do you think HPC is not doing this currently?</p> <p>Ideally, what else, if anything, <i>could</i> they be doing? Why do you think HPC is not doing this currently?</p> <p>What, if anything, would you say are strengths of the HPC's F2P complaints process? Why do you say that? How does this compare with other regulators?</p> <p>PROBE working with other professional bodies / regulators /</p>	<p>To explore what stakeholders expect from a F2P regulator, and specifically from the HPC</p> <p>Assess HPC's current performance with regards to the F2P complaints process and how this compares with other regulators</p>

<p>organisations? Other aspects of dispute resolution HPC should be considering?</p> <p>And what, if anything, would you say are weaknesses of the HPC's F2P complaints process? Why do you say that? How does this compare with other regulators?</p> <p>How confident are you in the complaints process? Do you feel it is just and fair, or not? If not why not? Do you think it has the impact you think it should? How can it be improved?</p> <p>What <b>communications and information</b> should the regulator provide about the F2P? Why do you say that? Could it be improved?</p>	
<p><b>4. Information for complainants and registrants</b></p>	<p><b>10 mins</b></p>
<p>Thinking about the information that HPC provides for complainants and registrants about the F2P process....</p> <p>What information are you aware that they provide? PROBE FOR DETAILS information booklets, website, letters, verbal communication? And when is this information provided (i.e. at what stage in the complaints process?)</p> <p>How useful is this information? What does it cover? Is there anything that isn't covered so well? Can you give a specific example of that?</p> <p>IF NOT AWARE OF INFORMATION PROVIDED:</p> <p>What information do you think the HPC should provide to registered health professionals about the F2P process?</p> <p>PROBE FOR</p> <ul style="list-style-type: none"> <li>▪ Finding out about how to make a complaint</li> <li>▪ When to go to the HPC rather than another regulator or another organisation</li> <li>▪ Potential outcomes and expectations about these</li> </ul>	<p>To identify opportunities for improving the information that is provided to complainants and registrants</p>

<ul style="list-style-type: none"> <li>▪ Timeframes involved in making a complaint and receiving an outcome</li> <li>▪ Role of a case manager</li> <li>▪ Information that the HPC will require</li> <li>▪ Role of the investigating committee (meets in private to consider whether HPC needs to take any further action)</li> <li>▪ Role and powers of the panels (Conduct and Competence Committee, Health Committee, Investigating Committee)</li> <li>▪ Public v private elements of the process</li> <li>▪ Powers of the HPC – requiring individuals/organisations to provide information/documents, requiring witnesses to attend hearings</li> <li>▪ Hearings</li> <li>▪ Cases that may result in action being taken? HPC’s powers? What the HPC can’t do? Determining whether there is a case to answer?</li> </ul> <p>ASK PROFESSIONAL BODIES How could the HPC improve its <b>information to registrants</b> about the F2P process? Why?</p> <p>ASK CHARITIES / NOT FOR PROFIT How could the HPC improve its <b>information to registrants</b> about the F2P process? Why?</p> <p>PROBE FOR SPECIFIC IMPROVEMENTS availability of information, timing of provision (e.g. specific stage in the process, ...</p>	
<p><b>5. Support for complainants and registrants</b></p>	<p><b>5 mins</b></p>
<p>Now thinking about the support that HPC provides for complainants and registrants through the F2P complaints process...</p> <p>What support are you aware they provide to complainants? To registrants? PROBE FOR DETAILS</p> <p>How useful is this support? What is good about it? What isn’t so good about it? What could the HPC do differently? How</p>	<p>To identify opportunities for improving the information that is provided to complainants and registrants</p>

could the support be improved?	
<b>5. Conclusion</b>	<b>2 mins</b>
<p>If you could change one thing about how the HPC's F2P complaints process operates, what would it be?</p> <p>Are there any other issues you feel should be raised or any final comments you would like to add before we finish?</p> <p>CONFIRM HOW SPECIFICALLY THEY WISH THEIR COMMENTS TO BE ATTRIBUTED (I.E. THEMSELVES PERSONALLY, THEIR ORGANISATION OR SECTOR)</p> <p>CONFIRM NEXT STEPS: HPC WILL BE USING THE RESEARCH FINDINGS TO IMPROVE EXISTING F2P COMPLAINTS INFORMATION AND CASE HANDLING AND FOR DEVELOPMENT OF FUTURE COMMUNICATIONS STRATEGIES. STAKEHOLDERS CAN REQUEST A COPY OF THE FINDINGS DIRECTLY FROM HPC.</p> <p>THANK AND CLOSE</p>	

## Discussion group with members of the public

### HPC Fitness to Practise Complaints Research:

#### Discussion groups: General Public

#### Objectives

- To explore what the general public expect both in terms of information provision and outcome when they make a fitness to practise complaint about a professional to a regulatory body.
- More specifically, to determine the awareness/expectations of the general public regarding:
  - The role of a professional regulator such as the HPC;
  - Information about the organisation and its fitness to practise/complaints process;
  - Case handling and support of complainants through the process; and
  - Outcome.
- To establish recommendations to improve existing information and case handling to inform the development of future HPC communications strategies.

#### Outline of the broader research programme

- 18 depth interviews (via telephone) with people who have recently been through the process of making and following up a complaint about the fitness to practise of an HPC registrant. We are interviewing three kinds of complainant: members of the public, employers and other HPC registrants. The interviews will be conducted from 26 October to 20 November 2009.
- In addition, we are conducting depth interviews with senior stakeholders in the HPC fitness to practise complaints process to gather feedback about the HPC complaints process and/or expert opinion on best practice in information provision and support in complaints handling.
- We are also holding discussion groups with members of the public and HPC registrants in November to gauge expectations about the complaints process and expected fitness to practise responsibilities of a regulator.

Interview sections	Aims	Approx timings
1. Introduction	Introduces the research and outlines the 'rules' of the discussion.	6.30 – 6.40
2. Awareness of health professions regulation and fitness to practise process	To uncover existing awareness of healthcare professions regulation and any expectations and awareness of the fitness to practise arrangements.	6.40 – 6.55
3. Making a complaint about a	Explore where people would get information if they had an issue or	6.55 – 7.10



healthcare professional	complaint to make, and uncover whether HPC would be top-of-mind to contact in the first instance.	
4. HPC Brochure – ‘How to make a complaint about a health professional’	Explore how the current information sources for complainants are viewed by the general public	7.10 – 7.25
5. Mapping Ideal information and support in the complaints process	Exercise designed to uncover what levels of support and information people would expect at each of the stages along the complaints process	7.25 – 7.55
6. Conclusion	Wrap up	7.55 – 8.00

Discussion Areas	Notes and timings
<b>1. Introduction</b>	<b>6.30 – 6.40</b>
<ul style="list-style-type: none"> <li>• Thank participants for taking part. Introduce self, Ipsos MORI and explain the aim of the discussion: about HPC and the fitness to practise complaints process. HPC has commissioned Ipsos MORI to conduct this research in order to assess and improve this process.  The aim of the research – to explore the general public’s expectations of professional fitness to practise complaints process. particularly in terms of : <ul style="list-style-type: none"> <li>▪ Expectations;</li> <li>▪ Information provision;</li> <li>▪ Support/Contact; and</li> <li>▪ Outcome.</li> </ul> </li> <li>• Role of Ipsos MORI – research organisation commissioned by HPC to gather all opinions. All opinions are valid; disagreements are welcome, but need to be agreeable and respectful.</li> <li>• Confidentiality: reassure all respondents that all responses will be anonymous. Participants’ names have been given to us in confidence for the purposes of this discussion.</li> <li>• Ask permission to digitally record and say report will be published (with anonymised quotations. No names of respondents would be given at front of report, unless permission for this is granted by individual respondents).</li> </ul> <p><b>I would like to begin by spending a couple of minutes introducing ourselves.</b></p>	<p>Introduces the research and outlines the ‘rules’ of the discussion (including those we are required to tell them about under MRS and Data Protection Act guidelines)</p> <p>Emphasises that the focus of the discussion will be expectations of a regulatory complaints process and what an ideal process might look like in terms of information sources and support.</p>

<p><b>Please could you introduce yourselves to the group by telling us:</b></p> <ul style="list-style-type: none"> <li>- your first name;</li> <li>- where you're from;</li> <li>- how long you have lived there.</li> </ul>	
<p><b>2. Awareness of regulation of healthcare professions and fitness to practise process</b></p>	<p><b>6.40 – 6.55</b></p>
<p><b>I would like to start with some more general questions.</b></p> <p>How confident are you in the quality and standards of healthcare professionals today? Do you feel there are adequate standards of regulation for healthcare professionals today?</p> <p><b>Can you name any organisations involved in regulating the health sector (both the NHS and private care)? WRITE UP RESPONSES ON A FLIPCHART.</b></p> <p><b>Do you know which organisation ensures that certain health professionals practise under high standards? LISTEN FOR ANY MENTION OF HPC</b></p> <p><b>IF NO MENTION: Have you heard of the Health Professions Council (HPC) before tonight?</b></p> <p><b>Questions IF HEARD of HPC:</b></p> <ul style="list-style-type: none"> <li>- <b>Where did you hear about them? When?</b></li> <li>- <b>What do you recall?</b></li> <li>- <b>What type of organisation is HPC?</b></li> <li>- <b>Can anyone explain their role and status?</b></li> </ul> <p><b>IF HAVEN'T HEARD OF THE HPC: It is a regulatory body to which people who work in certain health professions must register. HPC currently regulates 14 health professions and can take action in certain circumstances which I'll come on to tell you about in a moment. This handout shows which professionals are legally obliged to register with HPC if they wish to use the respective professional title.</b></p> <p><b>NOTE: IF GENERAL AWARENESS OF HPC IS HIGH, CARRY OUT THE PROJECTIVE EXERCISE IN THE REGISTRANTS TOPIC GUIDE.</b></p> <p><b>One of the most important aspects of the HPC's role is to intervene where a registrant's fitness to practise falls below the standards. What do you understand to be the meaning of the term 'fitness to practise'? What should it mean? PROBE FULLY FOR differences,</b></p>	<p>Uncover existing awareness of regulation of healthcare professions and any expectations and awareness of the fitness to practise arrangements.</p>

<p>similarities, and any confusion.</p> <p><b>What does fitness to practice entail? What do you think would be covered under this heading? What, in your opinion makes a health care professional fit/unfit to practice his or her profession? WRITE UP RESPONSES ON A FLIPCHART.</b></p> <p>GENERAL GUIDANCE FOR MODERATORS: IT IS IMPOSSIBLE TO PROVIDE AN EXHAUSTIVE LIST OF SITUATIONS, WHICH MAY RAISE ISSUES OF FITNESS TO PRACTISE. THE FOLLOWING ARE SOME ILLUSTRATIVE EXAMPLES ONLY</p> <ul style="list-style-type: none"> <li>• SEVERE UNSTABLE PHYSICAL OR PSYCHOLOGICAL ILLNESS OR DISABILITY</li> <li>• ABUSE OF ALCOHOL OR DRUGS</li> <li>• CRIMINAL RECORD</li> <li>• CONCERNS REGARDING GENERAL HONESTY AND PROFESSIONAL INTEGRITY</li> </ul> <p><b>I mentioned a moment ago that I would tell you a bit more about HPC. They can take action against the health professionals that they regulate if the title of a profession is misused, or if professional standards are not being obliged.</b></p>	
<p><b>3. Making a complaint about a healthcare professional</b></p>	<p><b>6.55 – 7.10</b></p>
<p><b>If you felt a healthcare professional had mistreated you, which official person/body would you speak to about making a complaint? Who else? PROBE FULLY FOR: Your GP? Local PCT? Lawyer/Solicitor? Citizens Advice Bureau? Health Professions Council? Another body/organisation?</b></p> <p>Would you speak to others beforehand about making a complaint? Family members, spouse / partner, friends / other healthcare professionals / colleagues? The professional themselves that you are making the complaint against?</p> <p><b>What sort of information do you think you would need to provide in order to make a complaint against a healthcare professional? How would you go about finding that out?</b></p> <p>How would you contact an organisation like the HPC to make your complaint? Where would you go to find out how to make your complaint?</p> <p><b>If you were to make a complaint, what do you think your</b></p>	<p>Explore where people would get information if they had an issue or complaint to make and uncover whether HPC would (genuinely) be top-of-mind to contact in the first instance.</p>

<p><b>expectations about the outcome might be when you made the complaint? PROBE Disciplinary action? Compensation?</b></p> <p><b>An apology? IF SO: Under what circumstances, if any, would an apology be sufficient?</b></p> <p><b>How would you expect an organisation like the HPC to deal with your complaint? PROBE By waiting in a queue loop? Put through to the correct person / department? Treated seriously / appropriately / sensitively?</b></p> <p><b>In lodging a complaint about a healthcare professional, what kind of timeframe would you be anticipating before an appropriate outcome was reached? PROBE FULLY FOR: How long? Weeks? Months? Years? Why do you think this?</b></p> <p><b>What is ‘an appropriate outcome’, in your view? (MODERATOR This is likely to depend on the nature of the offence)</b></p>	
<p><b>4. HPC Brochure – ‘How to make a complaint about a health professional’</b></p>	<p><b>7.10 – 7.25</b></p>
<p>DISTRIBUTE COPIES OF THE HPC BROCHURE ON MAKING A COMPLAINT. NOTE: SHOULD BE ENOUGH COPIES FOR EVERYONE</p> <p>GIVE PARTICIPANTS THREE OR FOUR MINUTES TO READ OVER THE BROCHURE FULLY</p> <p><b>What are your initial impressions of the brochure? PROBE FULLY FOR: Comprehensive? Clear and well set out? Does it meet all your information needs? Is there anything missing?</b></p> <p><b>What about the layout? Is it readable and user-friendly? Can you easily find the information you might need? Why/why not? How/could it be presented to do make that as easy as possible?</b></p> <p><b>Would you like more / less information? In what areas?</b></p> <p><b>What about the contacts section? Do you feel you are given enough contact information? Would you want a named contact in the brochure? Why/why not?</b></p>	<p>Explore how the current information sources for complainants is viewed by the general public</p>
<p><b>5. Mapping Ideal information and support in the complaints process</b></p>	<p><b>7.25 – 7.55</b></p>
<p><b>Complaints Process Journey</b></p> <p><b>I’d now like us to do a little exercise. I’d like you to look at this wall</b></p>	<p>Exercise designed to uncover what</p>

– and imagine that this is you lodging a complaint about one of the health professionals on the show card that we've seen. This is where you start off deciding that you want to lodge a complaint, and this is where it all finishes with some kind of outcome. I want you to think of the entire journey ...

NOTE: FLIP CHARTS TO BE PUT ON THE WALL, WITH A VERY BASIC OUTLINE OF THE COMPLAINTS PROCESS JOURNEY FROM LODGING A COMPLAINT THROUGH ALL THE KEY STAGES TO THE FINAL OUTCOME.

INTRODUCE THE GROUP TO EACH OF THE KEY STAGES IN TURN. FOR EACH STAGE OF THE JOURNEY, ASK THE GROUP TO WRITE UP ON POST-ITS (TWO OR) THREE KEY POINTS ON EACH OF THE FOLLOWING AREAS:

- Expectations
- Information
- Contact
- Outcome

#### A) LODGING A COMPLAINT

**Expectations:** What would you be expecting at this point? Why would you expect that? How do you think you would need to lodge the complaint? PROBE FULLY: In writing? Would it be ok to do it verbally?

**Information:** What information do you think you would need at that point? What format? Do you think a brochure would help?

What about information on the website? Would you use it?

**Contact:** What contact would you expect from HPC? What would you expect in terms of updates on progress? How could HPC make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any

levels of support and information people would expect at each of the stages along the complaints process

confusion.

## **B) APPOINTMENT OF A CASE MANAGER**

**Expectations:** Would you expect a case manager to be appointed? Why would you expect that? What sort of role do you think a case manager would play? PROBE FULLY FOR: Main point of contact? Source of information? Providing guidance? Advocate for you in following through your complaint?

**Information:** What information do you think you would need at that point? How would you expect the case manager to introduce him or herself? PROBE: Letter? Phone call? Email?

Would you want to meet the case manager in person? Why/why not? IF SO: Why do you say meeting in person would be helpful? PROBE: Sense of confidence in the process? Making the process more personal/adding a human touch?

**Contact:** What contact would you expect from the case manager? What would you expect in terms of updates on progress? How would your case manager make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any confusion.

## **C) INVESTIGATING PANEL**

**Expectations:** What would you expect the role of the investigating panel to be? Why would you expect that?

Who would you expect to be included on a panel investigating the complaint? PROBE: A member of the profession? Layperson? Lawyer/judge/legal professional?

**Information:** What information do you think you would need at that point? How would you expect the case manager to introduce him or herself? PROBE: Letter? Phone call? Email?

**Contact:** What contact would you expect from the case manager? What would you expect in terms of updates on progress? How would your case manager make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any confusion.

#### **D) HEARING**

**Expectations:** What would you expect the hearing to look/feel like? ROBE Courtroom? Formal / informal / severe / relaxed? Why would you expect that?

**Information:** What information do you think you would need at that point? What, if anything could HPC do to improve the clarity and quality of the information they give you about the hearing?

**Contact:** What contact would you expect from the case manager? What would you expect in terms of updates on progress? How would your case manager make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any confusion.

#### **E) DECISION**

**Expectations:** How quickly would you expect a decision? PROBE At the hearing? Within a week? Why would you expect that?

**Information:** How would you like to be informed of the decision? Letter? By telephone? Email? Why would this method of communication be best?

**Contact:** What contact would you expect at this point? What would you expect in terms of updates between the hearing and the decision? Would you like someone to contact you to explain the? IF

<p>SO: Why would that contact be ideal?</p> <p><b>Outcome:</b> What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any confusion.</p>	
<p><b>5. Conclusion and Wrapping up</b></p>	<p><b>7.55 – 8.00</b></p>
<p>To conclude, if you could make one final suggestion about the complaints process to improve information or support during the process what would it be?</p> <p>OR: One point of advice about support for complainants from the HPC, what would it be?</p> <p>Further comments?</p> <p>As you may have gathered, this research is being conducted on behalf of the Health Professions Council. They are interested in examining the HPC fitness to practise complaints process and how the system might be enhanced or improved. Anything you have said will be kept confidential – i.e. not attributed to you, nor will we divulge who has taken part.</p> <p>THANK AND CLOSE</p>	



## Discussion groups with registrants

### HPC Fitness to Practise Complaints Research

#### Discussion groups: Registrants

##### Objectives

- To explore what HPC registrants expect both in terms of information source and support when they are involved in a fitness to practise complaint with the HPC.
- More specifically, to determine the awareness/expectations of registrants regarding:
  - The role of the HPC in intervening where fitness to practise standards are breached;
  - Information about the organisation and its fitness to practise/complaints process;
  - Case handling and support of complainants through the process; and
  - Outcome.
- To establish recommendations to improve existing information and case handling to inform the development of future HPC communications strategies.

##### Outline of the research programme

- 18 depth interviews (via telephone) with people who have recently been through the process of making and following up a complaint about the fitness to practise of an HPC registrant. We are interviewing three kinds of complainant: members of the public, employers and other HPC registrants. The interviews will be conducted from 26 October to 20 November 2009.
- In addition, we are conducting depth interviews with senior stakeholders in the HPC fitness to practise complaints process to gather feedback about the HPC complaints process and/or expert opinion on best practice in information provision and support in complaints handling.
- We are also holding discussion groups with members of the public and HPC registrants in November to gauge expectations about the complaints process and expected fitness to practise responsibilities of a regulator.

Interview sections	Notes	Approx timing
1. Introduction	Introduces the research and outlines the 'rules' of the discussion	8.15 – 8.25
2. Awareness of HPC and fitness to practise process	Uncover existing awareness of the HPC and any expectations and awareness of fitness to practise process.	8.25 – 8.40
3. Being the subject of a fitness to practise complaint	Explore what sort of expectations registrants have if a complaint is made about them and what kinds of information	8.40 – 8.55

	and support they would anticipate.	
4. HPC Brochure – ‘What happens if a complaint is made about me?’	Explore how the current information sources are viewed by registrants	8.55 – 9.10
5. Mapping Ideal information and support in the complaints process	Exercise designed to uncover what levels of support and information people would expect at each of the stages along the complaints process	9.10 – 9.40
6. Conclusion	Wrap up	9.40 – 9.45

Discussion Areas	Notes and timings
<b>1. Introduction</b>	<b>8.15 – 8.25</b>
<ul style="list-style-type: none"> <li>• Thank participants for taking part. Introduce self, Ipsos MORI and explain the aim of the discussion: about HPC and the fitness to practise complaints process. HPC has commissioned Ipsos MORI to conduct this research in order to assess and improve this process.</li> </ul> <p>The aim of the research – to explore the general public expectations of professional fitness to practise complaints process particularly in terms of :</p> <ul style="list-style-type: none"> <li>▪ Expectations;</li> <li>▪ Information provision;</li> <li>▪ Support/contact; and</li> <li>▪ Outcome.</li> </ul> <ul style="list-style-type: none"> <li>• Role of Ipsos MORI – research organisation commissioned by HPC to gather all opinions. All opinions are valid; disagreements are welcome, but need to be agreeable and respectful.</li> <li>• Confidentiality: reassure all respondents that all responses will be anonymous. Participants’ names have been given to us in confidence for the purposes of this discussion.</li> <li>• Ask permission to digitally record and say report will be published (with anonymised quotations. No names of respondents would be given at front of report, unless permission for this is granted by individual respondents).</li> </ul> <p><b>I would like to begin by spending a couple of minutes introducing ourselves.</b></p> <p><b>Please could you introduce yourselves to the group by telling</b></p>	<p>Introduces the research and outlines the ‘rules’ of the interview (including those we are required to tell them about under MRS and Data Protection Act guidelines)</p> <p>Emphasises that the focus of the discussion will be expectations of a regulatory complaints process and what an ideal process might look like in terms of information sources and support.</p>

<p><b>us:</b></p> <ul style="list-style-type: none"> <li>- your first name;</li> <li>- where you're from;</li> <li>- in what profession you practice;</li> <li>- whether NHS or private, or both;</li> <li>- and for how long you have been practising?</li> </ul>	
<p><b>2. Awareness of HPC and fitness to practise process</b></p>	<p><b>8.25 – 8.40</b></p>
<p><b>I would like to start by thinking about the Health Professions Council in general.</b></p> <p><b>What do you see as the main purposes and goals of the HPC? WRITE UP RESPONSES ON A FLIPCHART.</b></p> <p><b>How well would you say you know the HPC and its role?</b></p> <p><b>WARM-UP EXERCISE – PROJECTIVE TECHNIQUE (5 MINUTES). If HPC was a person, what would they be like?</b></p> <ul style="list-style-type: none"> <li>- <b>PROBE:</b> Why do you say that? What associations come with this choice? Would HPC consider these to be good or bad? Why?</li> <li>- If HPC was to choose to be a person, what sort of person would they want to be? Why?</li> </ul> <p><b>Now, thinking specifically about ‘registration’ and ‘regulation’...</b></p> <p><b>What do you understand as a practitioner by the terms ‘registration’ and ‘regulation’? PROBE FULLY FOR differences, similarities, and any confusion.</b></p> <p><b>Is regulation seen as going much further than simply registering with a body? What does regulation entail?</b></p> <p><b>What are the good/bad aspects of registration?</b></p> <p><b>READ OUT DEFINITIONS IF PROMPTED BY PARTICIPANTS (OPTIONAL)</b></p> <p><i>Regulation - The act of regulating or the state of being regulated. A principle, rule, or law designed to control or govern conduct.</i></p> <p><i>Registration (with a body) - a group of persons associated by some common tie or occupation and regarded as an entity</i></p> <ul style="list-style-type: none"> <li>- Is <u>regulation</u> important for health professionals, or not? Why?</li> <li>- In what ways have issues regarding <u>regulation</u> arisen in your</li> </ul>	<p>Uncover existing awareness of the HPC and any expectations and awareness of fitness to practise process.</p>

<p>work?</p> <ul style="list-style-type: none"> <li>- <b>KEY QUESTION:</b> How important is it for you to be able to communicate that you are <u>registered</u> with HPC, and that it is a <u>regulatory</u> body? Why? What difference does it make? Who do you wish to communicate this to?</li> <li>- How would you like to be able to show that you are registered with HPC?</li> </ul> <p><b>Thinking now specifically about the fitness to practise process...</b></p> <p><b>How much if at all do you know about the following aspects of the process?</b></p> <ul style="list-style-type: none"> <li>▪ <b>Role of the investigating committee</b> (meets in private to consider whether HPC needs to take any further action)</li> <li>▪ <b>Role and powers of the panels</b> (Conduct and Competence Committee, Health Committee, Investigating Committee)</li> <li>▪ <b>Public v private elements of the process</b></li> <li>▪ <b>Powers of the HPC</b> – requiring individuals/organisations to provide information/documents, requiring witnesses to attend hearings</li> </ul>	
<p><b>3. Being the subject of a fitness to practise complaint</b></p>	<p><b>8.40 – 8.55</b></p>
<p><b>How would you feel in the first instance if a fitness to practise complaint was made against you?</b> PROBE: Embarrassed? Frustrated? Part of your professional experience/everyone has a complaint made against them at one point or another?</p> <p><b>Whose advice would you seek if a complaint was made against you?</b> PROBE FULLY FOR: <b>Your professional body/guild? Employer? Lawyer/solicitor?</b></p> <p>What sort of support/guidance/advice would you be seeking at this time?</p> <p><b>What sort of information do you think you would need to provide in order to defend yourself against a complaint made against you? How would you go about finding that out?</b></p> <p><b>How would you expect the HPC to deal with the complaint made against you?</b> PROBE by waiting in a queue loop? Being put through to the correct person / department? Treated seriously /</p>	<p>Explore what sort of expectations registrants would have if a complaint was made about them, and what kinds of information and support they would anticipate.</p>

<p><b>appropriately / sensitively?</b></p> <p><b>If a complaint was made about you, what kind of timeframe would you be anticipating before an appropriate outcome was reached? PROBE FULLY FOR: How long? Weeks? Months? Years? Why do you think this?</b></p>	
<p><b>4. HPC Brochure – ‘What happens if a complaint is made about me?’</b></p>	<p><b>8.55 – 9.10</b></p>
<p>DISTRIBUTE COPIES OF THE HPC BROCHURE ON COMPLAINTS MADE AGAINST REGISTRANTS. NOTE: SHOULD BE ENOUGH COPIES FOR EVERYONE</p> <p>What are your initial impressions of the information? PROBE FULLY FOR: Comprehensive? Clear and well set out? Does it meet all your information needs? Is there anything missing?</p> <p>What about the layout? Is it readable and user-friendly? Can you find the information you would need easily? Why/why not? How/could it be presented to do that?</p> <p>Would you like more / less information? In what areas?</p> <p>Is the information in this brochure helpful? Why / why not? If not, what information might be helpful? Could anything be made clearer in the information presented in the brochure?</p>	
<p><b>5. Mapping Ideal information and support in the complaints process</b></p>	<p><b>9.10 – 9.40</b></p>
<p><b>I’d now like us to do a little exercise. I’d like you to look at this wall – and imagine that this is you having a complaint lodged against you. This is where you the process starts off, i.e. with the complaint being lodged, and this is where it all finishes with some kind of outcome. I want you to think of the entire journey ...</b></p> <p>NOTE: FLIP CHARTS TO BE PUT ON THE WALL, WITH A VERY BASIC OUTLINE OF THE COMPLAINTS PROCESS JOURNEY FROM A COMPLAINT BEING LODGED, THROUGH ALL THE KEY STAGES TO THE FINAL OUTCOME.</p> <p>INTRODUCE THE GROUP TO EACH OF THE KEY STAGES IN TURN. FOR EACH STAGE OF THE JOURNEY, ASK THE GROUP</p>	<p>Exercise designed to uncover what levels of support and information registrants would expect at each of the stages along the complaints process</p>

TO WRITE UP ON POST-ITS THREE KEY POINTS ON EACH OF THE FOLLOWING AREAS:

- Expectations
- Information
- Contact
- Outcome

D) WHEN A COMPLAINT IS MADE

**Expectations:** What would you be expecting at this point? Why would you expect that? How would you expect notice of the complaint to be communicated to you? PROBE FULLY: In writing? Verbally?

**Information:** What information do you think you would need at that point? What format? Do you think a brochure would help (like the one we have just discussed)?

What about information on the website? Would you use it?

**Are you aware of the 28 days which you are entitled to, to respond to a complaint? Is this long enough? What would you do if you needed more time?**

**Contact:** What contact would you expect from HPC? What would you expect in terms of updates on progress? How could HPC make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any confusion.

E) APPOINTMENT OF A CASE MANAGER

**Expectations:** Would you expect a case manager to be appointed? Why would you expect that? What sort of role do you think a case manager would play? PROBE FULLY FOR: Main point of contact? Source of information? Providing

guidance? Advocate for you in responding to the complaint?

**Information:** What information do you think you would need at that point? How would you expect the case manager to introduce him or herself? PROBE: Letter? Phone call? Email?

Would you want to meet the case manager in person? Why/why not? IF SO: Why do you say meeting in person would be helpful? PROBE: Sense of confidence in the process? Making the process more personal/adding a human touch?

**Contact:** What contact would you expect from the case manager? What would you expect in terms of updates on progress? How would your case manager make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any confusion.

#### F) INITIAL INVESTIGATING PANEL

**Expectations:** What would you expect the role of the initial investigating panel to be? Why would you expect that?

#### **Who would you expect would sit on the panels?**

**Information:** What information do you think you would need at that point? Information about the role of the various committees? The powers of the panels? The public vs. private aspects of the process?

**Contact:** What contact would you expect from the case manager? What would you expect in terms of updates on progress? How would your case manager make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and

any confusion.

#### D) REFERRAL TO SPECIALIST INVESTIGATING PANEL

**Expectations:** What would you expect the role of the initial investigating panel to be? Why would you expect that?

**Information:** What information do you think you would need at that point? How would you expect the case manager to introduce him or herself? PROBE: Letter? Phone call? Email?

**Contact:** What contact would you expect from the case manager? What would you expect in terms of updates on progress? How would your case manager make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and any confusion.

#### E) HEARING

**Expectations:** What would you expect the hearing to look/feel like? PROBE Courtroom? Formal / informal / severe / relaxed? Why would you expect that?

**Information:** What information do you think you would need at that point? What, if anything could HPC do to maximise the clarity and quality of the information they give you about the hearing?

**Contact:** What contact would you expect from the case manager? What would you expect in terms of updates on progress? How would your case manager make it clear about the levels of contact and the progress updates that you would receive?

**Outcome:** What would be a satisfactory outcome at this point in the process? PROBE FULLY FOR differences, similarities, and



any confusion.	
<b>5. Conclusion and Wrapping up</b>	<b>9.40 – 9.45</b>
<p>To conclude, if you could make one final suggestion about the complaints process to improve information or support during the process for registrants who are the subject of a complaint, what would it be?</p> <p>OR: if you could give one final one point of advice about support from the HPC for registrants who are the subject of a complaint, what would it be?</p> <p>Further comments? (e.g. if they were complaining about another registrant, what might be the issues/difficulties?)</p> <p>This research is being conducted on behalf of the Health Professions Council. They are interested in examining the HPC fitness to practise complaints process and how the system might be enhanced or improved. Anything which you have said will be kept confidential - – i.e. not attributed to you, nor will we divulge who has actually taken part (though the original list of potential participants was provided to Ipsos MORI by HPC).</p> <p>THANK AND CLOSE</p>	