

Fitness to Practise Committee 14 February 2013

Scheduling process

Executive summary

Introduction

The attached paper provides more detail on the way fitness to practise hearings are scheduled. We have also undertaken a review of how we undertake scheduling.

This paper describes the scheduling process and outlines the challenges faced by HCPC. It includes the changes to process to ensure that quality assurance measures are built in, and an analysis of the breakdown of where hearings take place.

Decision

The Committee is asked to note the attached paper

Background information

None

Resource implications

The Scheduling Manager is leading this work with recommendations for savings included in budget assumptions.

Financial implications

Budget for activity has been assigned as part of the 2013 – 14 activity plan. Additional savings are sought within this forecast in order to deliver greater activity.

Appendices

Appendix One - Scheduling Process
Appendix Two - Pre Hearing Information Form

Date of paper

28 January 2013

Scheduling process

1.0 Introduction

This paper describes the activities associated with scheduling the range of fitness to practise panel hearings. In order to ensure that the processes remain fit for purpose and responsive to changing needs and volumes of work, the process has been reviewed with additional quality checks and stages added.

- 1.1 The Scheduling team currently comprise of five Scheduling Officers and one Scheduling Manager. The team are responsible for the scheduling of all Fitness to Practice committee hearings and registration appeals. This paper outlines the scheduling activity for the current year including new and existing processes that have been implemented to aid the efficient and expeditious scheduling of all FTP events.

2.0 Pre hearing stages:

- 2.1 Cases that have been referred to an investigating committee panel and have passed the 'case to answer' test – meaning that the panel have determined that there is a realistic prospect that the council will establish the registrants fitness to practise is impaired at a final hearing – will either be referred to the conduct and competence committee or the health committee. Referred cases will progress from the investigating stage to the pre hearing stage, which is closely monitored by the adjudications team. Active pre-hearing cases can be separated into three key stages. They are:
 - 2.2 *Work in progress cases* - These are cases that have been determined as 'case to answer' by the investigating committee panel and subsequently referred to solicitors, who will continue with the investigation and compile evidence in preparation for a final hearing. The duration of each investigation is usually three months once the Investigating Committee as made their decision. Normally this accounts for 35% of the pre hearing cases that have been passed by the Investigating Committee as case to answer.
 - 2.3 *Ready to schedule cases* - Four key process stages are involved in fixing a hearing: the collection of dates to avoid by witnesses, registrant and representative (if known), the location of the hearing and availability of venue space, the makeup and availability of the appropriate panel members and the production and despatch of documentation according to HCPC standard directions. This process usually takes three months and it is rare to complete this more quickly due to notice periods. There will therefore always be three months of cases being scheduled at any one time. There are usually 35% pre-hearing cases that are being actively scheduled

2.4 *Scheduled cases* – We have a statutory requirement to serve notice to the registrant at least 28 days in advance of the hearing date. Our standard directions state that the council must serve a copy of the documents that they will be relying on for the final hearing no later than 42 days before the scheduled date. The notice period and 42 day service standard for sharing of documents means that there will always be a number of cases that have been scheduled and have a date for their hearing. Sometimes, cases may be scheduled further in advance to accommodate participant availability. There will always be at least three months of cases that are fixed but waiting to be heard. On average there are 30% of those in the Conduct and Competence or Health Committee remit that are scheduled to be heard in the next three months.

3.0 Scheduling hearings

3.1 The scheduling team are responsible for listing the following types of hearings:

- final substantive hearings
- Investigating Committee and registration panels
- Interim Order applications and reviews
- substantive reviews, including reviews of striking off orders
- preliminary hearings and discontinuances in part
- consent hearings (including VRA)
- restorations and;
- registration appeals

Table 1 – All scheduled hearings 2012-2013 to date – correct as of 24 January 2013

| All Hearings - 2012-13 to date | Number of hearings | Percentage |
|---------------------------------------|---------------------------|-------------------|
| CPs | 140 | 16% |
| Interim Orders | 227 | 27% |
| Prelims | 22 | 3% |
| Final Hearings | 288 | 34% |
| Substantive reviews | 152 | 18% |
| Restorations | 2 | >1% |
| Registration Appeals | 24 | 3% |
| Total | 855 | |

3.2 Scheduling requests are received either by the case management team or our solicitors. Hearing requests can also be made by registrants for instances such as requests for early reviews, restorations or registration appeals. Requests of this nature go through an approval route prior to scheduling. All hearing requests are received and administered via the paperless Case Management System and are prioritised by the team. Interim Order applications will have a higher priority over most cases due to public protection risks, whilst mandatory substantive reviews will also need to be closely monitored to ensure that a review hearing is held before the expiration of the sanction in place. Failure to do so will have both public protection and reputational risks.

4.0 Interim and Substantive reviews

In order to utilise resources and panel member time, the scheduling team group multiple review cases before their expiry date in order to have a full day of reviews, rather than calling in a panel to review a single case that may only take two hours to conclude. The adjudication team remain in frequent consultations with panel members to ensure that we group a realistic amount of cases in one day, as well as making sure that each case has a sufficient amount of time to be heard. Where possible, review cases are grouped by profession. This method is especially cost effective for reviews that need to be heard in Wales, Scotland or Northern Ireland.

5.0 Final Hearings

5.1 Solicitors currently estimate a hearing's length and communicate that to the scheduling team at a point where the case is ready to be listed. Guidance from HCPC on the relevant factors is in use to assist and to maintain consistency and reduce costs. By its nature there has to be flexibility in the application of scheduling guidance and special requirements are factored into time estimates, e.g. an expert witness attending is likely to lengthen the hearing. Pre-hearing questionnaires are currently being sent out to the registrant once the case has been notified as ready to fix. The form's purpose is to ascertain who is attending, whether the registrant intends to call any witnesses and other factors that may impact on the length of the hearing.

5.2 The questionnaires are currently being revised to request more information that will help make a more informed decision about the number of days required for a hearing where possible. A copy of the new questionnaire sent out by the scheduling team has been attached to this paper.

- 5.3 The scheduling team also contact the witnesses and representatives (if any) to obtain their availability either by email or via post. Once all dates have been received the scheduling officer will use the information provided to find a suitable date for the hearing. Once a full panel, transcriber and venue (if applicable) have been found, the Scheduling Officer will notify the registrant of the hearing date via post and email to all known correspondence addresses.
- 5.4 It is planned that from early 2013 the Scheduling Manager, instead of HCPC solicitors, will take decisions about the length of hearings. Solicitors will be requested to provide information when the hearing is ready to fix and the scheduling team will use their experience to calculate a number of days for the hearing to run. It is envisaged that this will provide increased accuracy in the length of hearings and reduce part heard events, as well as give early notice of any special requirements to assist with attendance of all parties.

6.0 Factors that affect the scheduling of a hearing

- 6.1 There are many factors that may disrupt the expeditious scheduling of our hearings. They are, but are not limited to:
- witness availability
 - registrant/witness availability
 - preliminary issues that need to be resolved prior to the hearing
 - panel availability and;
 - venues and special measures
- 6.2 The purpose of the pre hearing form is to address most of these factors at the ready to fix stage, so that they do not disrupt or delay the hearing. Hearings with several witnesses can cause some difficulties when scheduling as some of the witnesses may have conflicting availability, meaning that the hearing will need to be held later in the year than planned. This also has an impact on the credibility of evidence, or willingness to participate. We are working collaboratively with case management and our solicitors to resolve preliminary issues as early as possible, in some cases before the hearing is ready to schedule. Preliminary issues can consist of applications for witnesses to give evidence remotely, the use of expert evidence and joining matters involving different cases or registrants.
- 6.3 Panel member availability can affect the scheduling of a hearing. For example we have had instances where panel members notify the team of their inability to attend a hearing shortly before it is due to commence. If the team are unable to locate a replacement panel member to sit for the duration of the hearing, there will be no choice but to adjourn. Adjournments made at short notice can cause

distress to the registrant and witnesses, and will have financial and workload implications on the HCPC.

7.0 Giving evidence via video link

7.1 This year there have been 9 hearings scheduled that involved one or more witnesses giving evidence via video link. There will be additional resourcing issues that the scheduling team must consider as they will need to book an external venue for the witness with a strong ISDN link. At present we have one meeting room in house that is equipped for video conferencing. If the hearing is to be held in an external location, the scheduling officer must ensure that the venue chosen has the appropriate facilities to ensure that a secure video transmission can be received. In some cases venues will need to obtain the necessary equipment from a third party, which is an additional expense for us.

7.2 Witnesses have given evidence remotely from various locations both nationally and internationally. This year the most common location has been Australia. When organising a hearing involving an international witness, special consideration must be given to the start time of the hearing due to the time difference between countries. For example, Australian conference centres will need to be operational outside normal working hours to accommodate our needs.

8.0 Hearings booked externally

Table 2 – Hearing Locations in 2011-12 and 2012-13 – Correct as of 24 January 2013

| Locations (exc. ICP's) | 2011-12 | Percentage | Hearings 2012-13 | Percentage |
|-------------------------|------------|------------|------------------|------------|
| HCPC/EA | 588 | 84% | 619 | 82% |
| London other | 16 | 2% | 30 | 4% |
| England other | 9 | 1% | 6 | 1% |
| Scotland | 43 | 6% | 50 | 7% |
| Wales | 30 | 4% | 34 | 5% |
| Northern Ireland | 12 | 2% | 16 | 2% |
| Total | 698 | | 755 | |

8.1 A majority of our external venue bookings are managed by an external travel management service. In some instances our more frequently used venues are sourced and booked by the scheduling team. The most common locations for

hearings outside London are Edinburgh, Glasgow, Cardiff and Belfast as the HCPC has a statutory duty to hold hearings in the United Kingdom country that the registrant resides in.

- 8.2 When hearings are booked externally the scheduling officer must consider the number of participants in attendance as all venues require delegate numbers in advance. A typical review hearing will have around 7 delegates which include the Hearing Officer and shorthand writer if the registrant is not in attendance. The delegate numbers for final hearings will be much larger if there are multiple witnesses and the registrant/representative has confirmed that they will be attending. The Scheduling Officer will also need to consider booking multiple syndicate rooms for the panel, registrant and witnesses if there are no designated waiting areas at the venue.
- 8.3 There have been instances where we have held hearings in other cities for cost efficiency and circumstantial reasons, such as the registrants mobility issues, or the hearing being scheduled has multiple witnesses that live within close proximity to the registrant. This year we have scheduled hearings in alternative locations such as Dundee, Newcastle, Manchester and Bridgend. There is always a balance between holding a hearing in terms of costs of time and travel for all participants (including HCPC officers), with the requirement to ensure cost effectiveness. Necessarily, this is assessed on a case by case basis early in the scheduling process.

9.0 External venues project

- 9.1 As the frequency of hearings will continue to increase over the next year, it has been felt that the adjudications team should take advantage of the working relationships that have been built with the most frequently used venues, such as the SHSC and Park Plaza Cardiff. As there may not be enough meeting rooms in house to meet the expected demand, the scheduling team may be relying more on external venue bookings.
- 9.2 The existing venues terms and conditions, storage options and disposal of confidential documents and wi-fi options were additional aspects that the adjudications team wished to look in to. The team planned to negotiate with the venue management team to draft more flexible terms that can be specifically tailored to the way that the HCPC work, particularly their cancellation policies and fees.

- 9.3 Members of the adjudications team visited 29 existing and prospective venues over ten working days in England, Scotland, Wales and Northern Ireland to assess their facilities and renegotiate contractual terms. The team and the venue coordinators have all given positive feedback, with both parties having a better understanding of how to work collaboratively to ensure the smooth running of our hearings.
- 9.4 In many instances the team were successful in negotiating terms and conditions to make them more flexible and even lower existing rates.

10.0 Block booking panel members

- 10.1 Recognising that panel members have different availability and working circumstances, in 2010, the scheduling team introduced a pre-booking system available to panel chairs, legal assessors and lay panel members. Each party was invited to reserve an entire week to sitting as a panel member for an HCPC hearing by emailing the scheduling team with preferred dates over a three month period. Once dates have been allocated and stored on a block booking database, panel members are notified individually with their reserved dates. Schedulers can then pick panel members from the block booking database when fixing a hearing, which eliminates the need to call various chairs, legal assessors and lay panel members for their availability for a hearing. Block booking dates are non-committal and panel members have the option to release part or all of their reserved dates by notifying the scheduling team. We will continue to review this process in the coming year.

11.0 Summary and action plans

- 11.1 There is a growing need to find reliable London venues due to the planned building work that will be taking place at Whitefield House, Kennington in 2014. The recent rate renegotiations have delivered savings per day and an enhanced service at these locations.
- 11.2 The Scheduling Manager and Scheduling Officers have visited the two most frequently used London venues to discuss the current rates that are being offered. We were able to agree to suitable rates for both small and large hearings, with both venues offering day delegate rates and room hire rates. We have explored and agreed different pricing models for increased flexibility, with one supplier offering a flat rate for two locations, whilst another has offered a flat rate across 11 venues nationwide. This approach gives continuity of supply and allows different sized hearings to be accommodated appropriately.

11.3 The following work will be undertaken by adjudications to enable cost efficiencies in scheduling:

- local empanelment for hearings throughout the United Kingdom, where – alongside availability – panel members will be selected to include an element of best value relating to travel and accommodation costs. This has an additional benefit of mitigating disruption in severe or adverse weather conditions.
- continued review and testing of alternative affordable London venues that match HCPC quality standards.
- encouraging staff and panel members to use online bookings for travel and accommodation, and to book early to ensure the best deal and assured plane or train seat availability so that the hearing is not disrupted by panel changes.
- Hearing transcription tender renewal and associated savings from reduction in the production of transcripts. This system has been in operation for almost a year, with no complaints or issues relating to HCPC's requirement to publicise and hold public hearings. As new technologies emerge (such as digital recording and archiving), we will investigate their application to our processes.

PRE HEARING INFORMATION FORM

REGISTRANT NAME:

CASE REFERENCE:

This form enables you to respond to a number of key issues relating the final hearing that will be taking place before a panel of the Health and Care Professions Council (HCPC). This form also provides you with information about the witnesses that HPC intend to call and the anticipated length of the hearing. Providing the information requested on this forms helps us to manage the process of scheduling your hearing more effectively and minimise delays and anxiety.

The allegation that will be considered at the hearing was set out in the Notice of Allegation sent you on **DATE**. You were also sent a document at this time asking you to indicate whether you admitted the allegation. If you have not yet returned this form you may wish to do so now.

You may wish to seek advice from your representative, if you have one, before responding. This could be from your professional body or union if you are a member, or from any other person.

Please answer all the questions below and return this form to us by **DATE**. You can either send this to us by email (ftphearings@hcpc-uk.org) or by post to: FTP Hearings, Fitness to Practise Department, Health and Care Professions Council, Park House, 184 Kennington Park Road, London, SE11 4BU.

If you would like to discuss this form with a member of the team, please call one of our Scheduling Officers on 020 7840 9817.

1. HPC witnesses

The following witnesses will be called by the HCPC to provide evidence in this case. More detailed information about the evidence they will give will be provided in the case summary, which will be served with the hearing bundle at least 42 days in advance of the hearing:

1. **Jo Bloggs, Manager of Service (witness of fact)**
2. **Dr Smith, Psychiatrist (expert witness)**

2. Your witnesses

Please detail below the witnesses you intend to call, with an indication as to whether they are a witness to the facts of the allegation or to your character.

| Name | Type of witness | Contact details |
|--|---|----------------------------------|
| <i>Example</i> 1. John Smith, Colleague | <i>Fact</i> | 1 The Street JSmith@email.com |
| 2. Mrs Jones, friend | <i>Character</i> | |
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 3. Hearing details | | |
| Based on our assessment of the case and the information we currently hold, we estimate the following: | | |
| Number of days | | Hearing Location (city) |
| 4. Other information from you | | |
| Are there any factors that we should consider when scheduling this hearing that may mean additional time is required, or that special measures should be considered? | Yes / NO If yes, please provide details. | |
| Are there any issues that you think may need to be considered in advance of the hearing by the panel or at a preliminary hearing? | Yes / NO If yes, please provide details. | |
| Are you planning to attend the hearing? | YES / NO | |
| Do you have a representative? | Yes / NO If yes, please provide details. | |
| On what dates are you and your representative unavailable in the next four months? | | |

Representation

You may wish to consider seeking representation if you have not already done so. This may be from your professional body or union (if you are a member) ,or from any other person with or without a legal qualification. However, we may not be able to change the date of the hearing if you inform us that you are represented (or change your representative) once the date has been fixed.

Your evidence

Please note that under the standard directions you are required to provide your evidence to the HCPC 28 days in advance of the hearing.

The scheduling process

We are required to hear cases expeditiously and we will therefore need to proceed to fix the date for this hearing even if you do not return this form. However, we do seek to maintain regular communication with you and your representative. Your assistance in this process is much appreciated.