

THE HEALTH PROFESSIONS COUNCIL

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HEALTH COMMITTEE

MINUTES of the ninth meeting of the Health Committee held at **11:00am on Wednesday 22 September 2004** at Park House, 184 Kennington Park Road, London SE11 4BU.

PRESENT: Miss M Crawford (Chairman)
Mr J Camp
Professor T Hazell
Ms R Levenson
Mrs C McGartland
Dr J Old (Deputy-Chairman)
Professor D Waller
Dr A Van Der Gaag

IN ATTENDANCE:

Miss S Butcher (Committee Secretary)
Mr J Bracken (Bircham, Dyson, Bell)
Mr M Calligy (Case Manager, Fitness to Practise)
Mr M Guthrie (Case Manager, Fitness to Practise)
Miss K Johnson (Director Fitness to Practise)
Miss N O'Sullivan (Secretary to Council)
Miss E Seall (Case Manager, Fitness to Practise)
Mrs R Tripp (Communications Officer)

Item 1.04/28 INTRODUCTION AND WELCOME

The Chairman welcomed the new Fitness to Practise Committee Secretary, Miss Butcher, to the meeting and all members and non-members.

Item 2.04/29 APOLOGIES FOR ABSENCE

2.1 An apology for absence was received from the following Health Committee Member; Mrs Stark.

Item 3.04/30 APPROVAL OF AGENDA

- 3.1 The Health Committee approved the agenda.

Item 4.04/31 MINUTES

- 4.1 It was agreed that the minutes of the eighth meeting of the Health Committee be confirmed as a true record and signed by the Chairman.

Item 5.04/32 MATTERS ARISING

5.1 4.3 Matters Arising Self Notification (11.0)

- 5.1.1 The Committee noted that a paper on self referral had been considered at the Registration Committee meeting on Monday 13th September 2004. The Registration Committee had referred the matter to the Investigating Committee. Miss Johnson reported that this was to be addressed under any other business at the Investigating Committee meeting Thursday 23 September 2004.

Action: SB/KJ

5.2 6.2 & 6.3 – Legal Assessor Reports

- 5.2.1 The Committee noted that concern had been raised regarding the variation in content and style of the legal assessor reports currently produced. Miss Johnson reported that this would be addressed at the next Review Day for Legal Assessors scheduled for Wednesday 24 November 2004 and that an update would be provided at the next Health Committee meeting.

Action: KJ

5.3 7.3 – Mediation

- 5.3.1 The Committee noted that the company; Alternative Dispute Resolution (ADR), appointed to deal with unresolved issues referred to them by the Conduct and Competence/Health/Investigating panels had been requested to make a presentation to Council. Miss Johnson reported that she would clarify the progress of this and report back to the Committee at their next meeting.

Action: KJ

5.4 9.2 Matters Arising – Evaluation of Hearing Process

- 5.4.1 The Committee noted that the questionnaire devised by Opinion Leader Research company (OLR) regarding the evaluation of the HPC fitness to practise hearings had not yet been sent to members electronically as agreed at the last meeting.

- 5.4.2 Miss Johnson reported that she had met with OLR who were in the process of re-launching the questionnaire as some discrepancies had been

found. The new questionnaire would be presented at the Partner's Conference in Manchester Thursday 23 and Friday 24 September 2004 after which the necessary changes would be made and all feedback given to the Health Committee forthwith.

Action: KJ

Item 6.04/33 CHAIRMAN'S REPORT

- 6.1** The Chairman reported that she would be unable to attend the 'Away Day' in Scotland Wednesday 6 and Thursday 7 October 2004 and that in her absence Dr Old, the Deputy-Chairman of the Health Committee would be making a presentation to the away day on behalf of the Committee. The Chairman asked the Committee for possible topics for discussion at the event.
- 6.2** The Chairman also noted that there would be an informal meeting of members of the three Fitness to Practise Committees at the away day to discuss matters of mutual concern.
- 6.3** The Chairman noted that there had been relatively few hearings and interim suspension orders heard directly in relation to health issues. She had chaired the first Health Committee panel which had proceeded successfully. Miss Johnson confirmed that according to the procedural rules, all hearings were held in public. However, it was clarified that the panel could decide to hear a case in private if it perceived this to be more appropriate and the registrant provided a reasoned case for this. Such decisions would be made on a case by case basis. The Committee anticipated that the number of health cases heard in private would increase. Miss Johnson agreed to provide the statistics on the number of health cases held in public/private for the next meeting.

Action: KJ

Item 7.04/34 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 7.1** The Committee noted that a review of a conditions of practise order took place on 23rd July 2004.
- 7.2** One case was unfounded.
- 7.3** Miss Johnson reported that since the last meeting of Council, panels of the Investigating Committee have considered 41 cases and found there was a case to answer in 13 cases and requested further information in 8 cases.

There were currently 35 cases awaiting consideration by a panel of the Investigating Committee.

- 7.4** Miss Johnson reported that there are currently 48 cases within the remit of the Conduct and Competence Committee. Of these cases, dates for 17 had been set and 7 were awaiting review hearings.
- 7.5** Miss Johnson reported that there are currently 8 cases within the remit of the Health Committee. Of those cases dates for 3 had been set and 2 are awaiting review hearings one of which would be reviewed in March 2005.
- 7.6** Miss Johnson reported that since the last meeting of Council, a panel of the Conduct and Competence Committee had considered 2 applications for an interim order and imposed one.
- 7.7** Miss Johnson reported that there were currently 274 active registration appeal cases. Since last meeting of Council, 65 cases had been reviewed, legal advice had been taken on 45 cases, 20 cases had reached a hearing, 27 appeals had been withdrawn and hearing dates for a further 86 appeals had been arranged.
- 7.8** Miss Johnson reported that an international registration officer was currently assisting the Fitness to Practise team on a secondment basis. A new case manager, Mr Guthrie had been appointed and has been in post since 23^d August 2004. A team administrator had also been appointed who was due to start on Monday 25th October 2004.
- 7.9** Miss Johnson reported that a further two day training sessions had been arranged for 25th and 26th October 2004 and 2^d and 3^d December 2004 where all remaining partners (including ODP's) would be trained. Council members who had not yet attended a session would be invited. The statistics for panel members used and trained were noted by the Committee.
- 7.10** Miss Johnson reported that a review day for legal assessors would take place on 24th November 2004. Feedback from this session would be made available to Fitness to Practise Committees at the next meeting.
- 7.11** The Committee noted that there had been an increase in anonymous letters of allegation received by the Fitness to Practise (FTP) Department. Miss Johnson clarified that in such scenarios the team had to therefore seek further information from a hospital trust or the police, whichever was the most appropriate route for enquiry. The Committee noted that in a lot of instances, the police did not always automatically submit this information. Miss Johnson and her team would be writing to all Chief Constables throughout the U.K. to explain the purpose and role of the HPC,

emphasising the importance of the timely submission of information regarding convictions so that the HPC could take action as appropriate.

- 7.12** Miss Johnson reported that the Fitness to Practise team had been reviewing the way FTP/Registration Appeal panels were run and had introduced new systems. The Committee noted that a new filing system had been implemented and the team were also working with the IT Department to create a tracking system for FTP cases.
- 7.13** The Committee noted that following a review of the FTP/Registration appeal processes, all standard letters had been redrafted. New practice notes had been drafted and would be submitted to all Fitness to Practise Committees and Council for approval.
- 7.14** The Committee noted that the team were also working on creating brochures for the FTP processes and would be working towards creating a witness support programme.
- 7.15** The Committee noted that a member of the team attended an FTP forum once a month. Fitness to practise representatives from the other 8 health care regulators also attended.
- 7.16** The Committee noted that there was a need for cross referrals of case subject matter between the Health and Conduct and Competence Committees, as it was found that frequently cases were a mixture of both, for example, mental health and drink driving.
- 7.17** The Committee requested that as the number of health referrals increased more detailed information was included in the reports to the Committee.

Action: KJ

Item 8.04/35 SANCTIONS

- 8.1** The Committee received a paper for discussion/approval from the Fitness to Practise Director.
- 8.2** The Committee noted Article 29 of the Health Professions Order which set out the orders that could be imposed by the Health Committee and the Conduct and Competence Committee. Miss Johnson reported that the practice note on sanctions guidance had been revised to include extended guidance on the drafting of orders and in particular conditions of practise orders.
- 8.3** The following sanctions were noted by the Committee; mediation, caution, conditions of practise, suspension and striking off. They were offered as

guidance to aid panel members in their deliberation. However, panels were free to disregard the guidance and to make decisions as they saw fit, based on the merits of each case.

- 8.4 Miss Johnson reported that in a number of cases panels had imposed conditions which if monitored effectively would have required the registrant to attend a review hearing every three months thus imposing a major burden on the panel, the registrant and HPC employees. The conditions of practice placed the responsibility on the registrant themselves (for example educational conditions could be imposed requiring the registrant to seek additional training.) When conditions of practise were applied they had to be easy to review.
- 8.5 The Committee questioned whether the sanctions proposed were enough to ensure public safety. Miss Johnson confirmed that conditions of practise could only be imposed over 3 years and emphasised that their sole purpose was to be rehabilitative in nature.
- 8.6 The Committee noted that to be on the HPC register individuals must meet the standard of proficiency for their profession and the Standards of Performance, Conduct and Ethics. These documents were an extremely valuable tool which would assist panel members in setting realistic conditions within the remit of HPC's abilities to enforce them.
- 8.7 The Health Committee agreed that the practise notes on sanction guidance be approved and referred this item onto Council for their approval as well.

Item 9.04/36 HEALTH AND DISABILITY PROFESSIONAL LIAISON GROUP

- 9.1 The Committee received a paper to note from Miss Tripp, Communications Officer at the HPC.
- 9.2 The Committee noted that the Council had agreed to set up a professional liaison group to look at health, disability and registration with the aim of issuing specific guidance. Various organisations had been contacted to request a nominee to sit on the Group. Professional body representation was sought through the Allied Health Professions Federation (AHPF). The AHPF were asked to nominate 2 people from their membership as a way of ensuring representation from professional bodies without creating a body of unmanageable size. Representation from education was sought from 6 institutions. The Committee noted that no response had been received from the patient and consumer groups. This was anticipated as they had limited access to resources. The Committee noted that future consideration needed to be given to a method of facilitating the participation of these groups. Groups representing or campaigning for

people with a disability were also contacted and 4 people had been put forward.

- 9.3 Miss Tripp clarified that the 3 Scottish Universities selected covered a wide range of allied health professions programmes. The Committee felt that this selection procedure should be reviewed in the future.
- 9.4 Miss Tripp reported that the Communications department were now in the process of writing to the people to confirm that their nominations had been successful, to collect full contact details and identify possible dates for a first meeting.
- 9.5 The Committee noted the paper as very informative and thanked Miss Tripp for her work with the health, disability and registration professional liaison group and awaited further feedback regarding its formation.

Item 10.04/37 DECISION MAKING

- 10.1 The Committee received a paper for information from the Fitness to Practise Director.
- 10.2 Miss Johnson reported that a new format for decision making had been introduced to assist panel members publishing their decisions. A similar format would be produced for the publication of interim decisions.
- 10.3 Miss Johnson reported that there are now 3 Hearing Officers/Case Managers; Mr Guthrie, Miss Seall and Miss Adams who could help panel members draft their decisions. The Fitness to Practise Department now had laptops and freestanding PC's where such tasks could be undertaken.
- 10.4 The Committee noted the Notice of Decision and Order paper was a very comprehensive and concise document by which panel members could undertake their duties successfully and efficiently. The assistance of the new Hearing Officers/Case Managers was also welcomed. The Committee congratulated Miss Johnson on this piece of work.

Item 11.04/38 INFORMATION FROM OPINION LEADER RESEARCH

- 11.1 The Committee received a paper to note from the Fitness to Practise Director.
- 11.2 Miss Johnson reported that a group of panel members was convened on the 20th August 2004 to discuss the evaluation of the HPC fitness to practise hearings process. Opinion Leader Research (OLR) undertook an evaluation of the fitness to practise processes at the start of the year and would be launching a revised version of the questionnaire at the Partner's

Conference on 23rd and 24th September 2004. The Committee noted that the Fitness to Practise team would be using the outcome of the questionnaire and the attached evaluation to review fitness to practise proceedings.

- 11.3** Miss Johnson reported that more information was required due to the small sample utilised for the research. 3 lay partners and 1 bio-medical scientist comprised the sample that was used.
- 11.4** A full discussion took place regarding the witness support programme. Miss Johnson reported that this should be in place by April 2005.
- 11.5** The Committee discussed the need to consider reimbursing Partners for the time they spent reviewing large amounts of evidence prior to a panel hearing. They noted that Partners had resigned over this in the past. The Committee were conscious of the fact that the HPC was losing valuable members such as independent practitioners, sessional workers and retired members because of this. Miss K Johnson reported that this issue was currently being considered by the Finance and Resources Committee.
- 11.6** The Committee discussed the options of cutting back on the amount of paperwork received regarding each case. Miss Johnson confirmed that panels must receive all of the information available so to ensure fully informed decisions were made. The option of providing guidance notes for reading case documentation was also discussed but the Committee concluded that this was a skill acquired over time and not prescribed by directive notes. The Committee concluded that registrant assessors could be useful in assisting the panels in their decision making by providing evidence in their professional areas of expertise.

Item 12.04/39 CHRE – COUNCIL FOR HEALTHCARE REGULATORY EXCELLENCE

- 12.1** The Committee received a paper for information from the Fitness to Practise Director.
- 12.2** Miss Johnson reported that the Council for Healthcare Regulatory Excellence (CRHE formally known as CRHP) was set up in April 2003 to promote best practice and consistency in the regulation of healthcare professions by 9 regulatory bodies. The HPC was represented on the Council by Professor Brook.
- 12.3** Miss Johnson reported that the paper presented a recent high court judgement which illustrated a scenario whereby a healthcare regulator's case was deemed as 'under prosecuted' had therefore been referred to the

High Court by CHRE under section 29 of its legislation. This could also occur if a sanction were judged to be 'unduly lenient'.

12.4 Miss Johnson clarified that the decisions of a Health Panel or an Investigating Panel were not impacted by CHRE.

12.5 The Committee noted that the paper was of interest to all members and thanked Miss Johnson for bringing this to their attention.

Item 13.04/40 DELEGATED AUTHORITY – DEMANDS FOR INFORMATION

13.1 The Committee received a paper for discussion/approval from the Fitness to Practise Director.

13.2 The Committee noted that the Health Professions Council and its Practise Committees had the power to order persons to provide information, produce documents and to appear at hearings. Failure to comply with such an order was a criminal offence.

13.3 The Health Committee agreed that the Director of Fitness to Practise and all persons appointed as HPC Case Managers be appointed by the Council as authorised persons for the purpose of Article 25(1).

13.4 The Committee noted that this had also been agreed by the Investigating Committee, the Conduct and Competence Committee and by Council.

Item 14.04/41 ROLE OF THE HEARING OFFICER/CASE MANAGER

14.1 The Committee received a paper for information from the Fitness to Practise Director.

14.2 The Committee noted the paper that had been provided outlining the Role of HPC Case Managers. Miss Johnson reported that the overall aim was to refine processes by assisting in the smooth running of HPC fitness to practise panels by instigating a more active role for the case manager/hearing officer at a hearing. The Committee noted that the HPC case manager would introduce each case, would indicate what papers had been received; note any supporting documentation, the date that the letter requesting observations was dispatched and any response that had been received. They would indicate whether the HPC had any comment on the matter. The case manager would indicate when the case had been at a previous investigating panel and what further information had been requested. The case manager would type the findings for the panel. Miss Johnson reported that the case manager would also perform these functions at interim orders and final hearings. The Committee noted that this would be very advantageous and requested that where possible the

same hearing officer/case manager remained the same throughout a hearing for consistency.

Item 15.04/42 INFORMATION FOR PANEL CHAIRS

- 15.1 The Committee received a paper to note from the Fitness to Practise Director.
- 15.2 Miss Johnson reported that the Conduct and Competence, Health and Investigating Committee procedural rules stated that a hearing (interim order and full hearing) should be conducted in a certain way. The Committee noted the document as a useful and informative piece of information for assisting panel chairs when chairing a panel.

Item 16.04/43 LIST OF UPCOMING PAPERS

- 16.1 The Committee received a paper to note from the Fitness to Practise Director.
- 16.2 Miss Johnson reported that the Fitness to Practise team was working on a number of areas to improve the fitness to practice procedures and to ensure that these processes were in line with the Health Professions Order 2001 and Procedure Rules.
- 16.3 The Committee noted the following upcoming papers (for information only); Self-Referrals, Witness Support Programme and Restorations. The Committee noted that the Restorations order does not yet affect the Health Committee's functioning.

Action: KJ

Item 17.04/44 ANY OTHER BUSINESS

- 17.1 There was no other business.

Item 18.04/45 DATE & TIME OF NEXT MEETING

- 18.1 The next meeting of the Health Committee would be held at 11:00am on Thursday 25 November 2004. Tony Hazell gave his apologies.
- 18.2 Further meetings would be held on the following dates;

Wednesday 9 February 2005