

# HEALTH PROFESSIONS COUNCIL

## INVESTIGATING COMMITTEE

**MINUTES** of the fourth meeting of the Investigating Committee held on 5 February 2004 at the Health Professions Council, 184 Kennington Park Road, London SE11 4BU.

Present: Mr N Willis (*Chairman*)  
Mr M W Barham  
Ms C Farrell  
Mr C Lea  
Miss M D MacKellar  
Mrs J Pearce

In attendance: Mr M J Seale (*Chief Executive & Registrar*)  
Mrs L A Barnes (*Director of Fitness to Practise*)  
Mr G L Milch (*Committee Secretary*)

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**Item 1. 01/04 APOLOGIES FOR ABSENCE**

Received from Mr Frowen, Mr Munro and Miss Pearson.

At the invitation of the Chairman, the Chief Executive explained the new secretarial arrangements for the three Practice Committees. The Committee was informed that the Investigating Committee, the Conduct and Competence Committee and the Health Committee would all now have Mr Milch as their secretary.

**Item 2. 02/04 APPROVAL OF AGENDA**

It was

**RESOLVED:1**

that the agenda be approved.

**Item 3. 03/04 MINUTES OF THE LAST MEETING**

It was

**RESOLVED:2**

that the meeting receive and confirm the minutes of the meeting held on 12 November 2003 as a true record and that they be signed by the Chairman.

**Item 4. 04/04 MATTERS ARISING FROM THE MINUTES**

4.1 Mediation

The Committee received an oral report from Mr Willis and Ms Farrell on the meeting that followed the last Committee meeting. Mr Willis confirmed that a report had been given to the most recent Council meeting (11 December 2003) and that one of the Directors (Miss Savage) was dealing with the matter.

4.2 Any Other Matter

4.2.1 Health and Disability Conference (Minute 4.3.2)

The Committee was advised that the conference on Health and Disability would now take place on Monday 1 March 2004

4.2.2 Preliminary Meetings

It was reported that the Conduct and Competence Committee had found that arranging preliminary meetings, where the panel chairman meets the parties involved with/or their legal/other representatives, most helpful in resolving issues before the formal hearing. It was agreed that the next agenda should have an item to discuss the relevance of preliminary meetings for the Investigating Committee.

**Action: GLM**

4.2.3 Anonymous Allegations

4.2.3.1 After discussion it was agreed that, where it was not possible for either the alleged perpetrator or the person making the allegations to be identified, no further action could be taken. Where identification was possible, the Chief Executive would have to decide whether or not the allegations were of a nature that required action. It was agreed that there could not be a blanket decision that all such allegations had to be pursued.

4.2.3.2 The Committee confirmed that all allegations had to be made in writing and that telephone calls or electronic mail would not be sufficient as no live identifiable signature could be given. It was agreed that a registrant about whom allegations had been made had the right to know who had made the allegations.

4.2.3.3 It was agreed that registrants had a duty (as given in the Standards of Conduct, Performance & Ethics) to inform the HPC of any disciplinary procedures being undertaken by their employer against themselves or another registrant. There might be a parallel process and the HPC's procedures might possibly move more rapidly than the employer's.

4.2.3.4 It was reported that the Department of Health was to arrange a conference in May 2004 for the Human Resources Directors of the English NHS Trusts. The Chief Executive considered that, if it were possible for the HPC to be able to address the meeting, it might be an opportunity to remind them of the HPC's existence and role in regulating healthcare professions including fitness to practise.

4.2.4 Dates of Future Meetings

It was noted that there had been a change to the calendar of Committee meetings and that the next meeting would be held on 29 June. Other dates remained as previously agreed.

4.2.4 Cases Pending Investigation

It was agreed that the information would be presented in a matrix format for future meetings.

**Action: AB**

4.2.6 Cases Pending Consideration by a Practice Committee

It was agreed that the information would be presented in a matrix format for future meetings by Practice Committee.

**Action: AB**

4.2.7 Interim Suspension Orders

There was discussion of the terms of Article 31(a) and (b) of the Health Professions Order 2001 and the care that had to be taken to ensure the time constraints were followed carefully where interim suspension orders and interim conditions of practice orders had been made. It was noted that another Practice Committee could revoke a conditions of practice order made by an Investigating Committee panel.

**Item 5. 05/04 INVESTIGATING COMMITTEE PROCEDURES**

5.1 The Committee reviewed the existing procedure document in the light of experience to date as it was required to do on an annual basis.

5.2 The Committee agreed that the basic procedure was that the Investigating Committee determined whether or not a case should proceed to be heard by either the Conduct and Competence Committee or the Health Committee. If the case were to go forward, the HPC's solicitors would be sent the file to make any necessary enquiries, interview witnesses if necessary and arrange a preliminary meeting to decide how long would be needed to prepare for a hearing. The hearing would then be set up expeditiously.

- 5.3 An Investigating Committee panel would not pass on its reasons for its decision whether or not to proceed. Those who have sifted through the allegations might make comments but these have not been given to the panels to date.
- 5.3 The Committee was advised that there had been a major change from the disciplinary nature of hearings held under the terms of the Professions Supplementary to Medicines Act 1960 where it was a case of being found guilty if proved beyond reasonable doubt, to the civil law approach of being on the balance of probabilities.
- 5.4 The Committee discussed the requirement that there must be a registered medical practitioner on each Practice Committee. It was noted that further recruitment was to start shortly. It was reported that the Council had discussed the position and had made enquiries about changing the Health Professions Order 2001 on this issue.
- 5.5 The Committee noted under 'Meetings' (paragraph 2) that it had to review its work over the previous year and to establish its members' education and training requirements for the coming year
- 5.6 It was noted (Meetings paragraph 4) that the Conduct and Competence Committee was required to report to the Council on the work of all three Practice Committees and thus should receive a report from each of the others.
- 5.7 The Committee expressed concern on the issue of whether there were sufficient partners and available Council members to meet the needs of an expanding area of work.
- 5.8 It was agreed that the sort of evidence which a panel might admit which would not be admissible in a court of law would include hearsay.
- 5.9 The Committee considered that it would be helpful if a database were to be set up to issue reminders about conditions of practice orders. There were questions as to how it would be made known that the registrant concerned had met the conditions.
- 5.10 The Committee noted that the procedures required a panel chairman to send a written report to the Committee within five working days giving the decision and reasoning.
- 5.11 There was discussion about the award of costs when appeals go to the appropriate court.

- 5.12 There was discussion about the need to establish a database to advise a panel of any previous allegations that had been made. Records were currently paper-based. It was agreed that there should be a standard paragraphs in letters to registrants advising them that, should any previous allegations exist, they can be taken into account. It was agreed that the HPC's solicitors be asked for advice on the framing of such paragraphs.  
**Action: AB**
- 5.13 It was agreed that all the Practice Committees needed to make use of IT to ensure that appropriate records were kept. It was considered essential in view of the expected growth of this area of the HPC's work. This matter would be raised at a future meeting.  
**Action: GLM**
- 5.14 It was agreed that, to avoid unnecessary duplication of information, panel members would no longer be sent sets of Standards of Proficiency, Standards of Conduct, Performance and Ethics and other documentation with every group of cases as they should already have these documents. It was further agreed that the Executive officer in attendance would hold a set at each meeting in case of a need to refer to any of them.  
**Action: GLM**
- 5.15 It was agreed that the minuted decisions of panel meetings considering a group of cases would be given to the panel Chairman for signature on the day of the meeting wherever possible.

**Item 6. 06/04 FINANCIAL COSTS OF THE FITNESS TO PRACTISE PROCEDURES**

- 6.1 The Committee was advised that it had not been possible to provide details of the costs of the procedures since 9 July 2003. It was expected that the information would be available at the next meeting.
- 6.2 There was discussion with the Council's solicitors about legal costs and what might be recovered through the courts on individual cases which went to appeal. The Committee was advised that there had been only two recent appeals (under the terms of the Professions Supplementary to Medicine Act 1960) and none under the new procedures since 9 July 2003. Appeals might be made against the decision of a panel or the procedure followed. The Committee was reminded that the Council for the Regulation of Health Professions (CHRP) might intervene where it was considered that the HPC had been too benign.

**Item 7. 07/04 GUIDANCE FOR SCREENERS**

- 7.1 The Committee was advised that the Council would formally decide about the necessity to appoint Screeners at its next meeting (2 March 2004). The Chief Executive informed the Committee of the rising number of allegations that were being received and that he was preparing a paper for Council accordingly.
- 7.2 The Committee was advised that Screeners would need to be formally appointed and trained before being able to look at the incoming post. It was noted that the initial sifting was carried out at no extra financial cost to the HPC at the moment. Consideration would need to be given to the rate of payment.
- 7.3 The Committee was advised that future HPC Annual Reports would need to indicate the percentage of allegations received went forward for consideration.
- 7.4 The Committee agreed that Screeners had to be able to be consistent in their decisions and that the process had to be clear. It was agreed that where there was no consensus, the case had to be referred to a Practice Committee.

**Item 8. 08/04 REFERRALS TO THE HEALTH COMMITTEE**

The Committee agreed that the issue of registrants about whom allegations were received as to their fitness to practise being impaired because of dependence on alcohol, would be recommended for consideration at the HPC's conference on Health and Disability being arranged for 1 March 2004.

**Item 9. 09/04 CASES PENDING INVESTIGATION**

The Committee noted the number of cases, by profession, pending consideration by an Investigating Committee Panel. It was agreed that future presentations should be in a matrix format.

**Item 10. 10/04 CASES PENDING CONSIDERATION BY A PRACTICE COMMITTEE PANEL**

The Committee noted the number of cases, by profession, pending consideration by a Practice Committee Panel. It was agreed that future presentations should be in a matrix format.

**Action: AB**

**Item 11. 11/04 INTERIM SUSPENSION ORDERS**

The Committee noted the number of interim suspension orders, by profession. It was agreed that future presentations should be in a matrix format.

**Action: AB**

**Item 12. 12/04 ATTENDANCE AT PRACTICE COMMITTEE PANEL TRAINING SESSIONS**

The Committee noted the number of registrant and lay partners (143) who have attended training sessions. There was concern that several Committee members had not been able to attend any of the training sessions to date. It was agreed that they should be given as much notice as possible of future sessions in order to gain a place.

**Action: KJ**

**Item 13. 13/04 ANNUAL REPORT 2003/4**

The Committee noted that amongst the Council's objectives was one concerning the production of the Annual Report. The Report should be ready for distribution by 31 July. The Chairman would be compiling a report of the Investigating Committee's activities during the year 1 April 2003 to 31 March 2004 covering its effectiveness and efficiency. The Report would include the usual attendance record of members.

**Action: NW**

**Item 14. 14/04 ANY OTHER BUSINESS**

14.1 Minutes

The Chairman requested that future minutes should include an indication that action was required and who was responsible for it.

**Action: GLM**

14.2 Information to Committee Members

There was concern that Members were not being kept fully informed of decisions. It was agreed that greater use should be made of the Members' website and electronic mail should any matter of import arise.

**Action: AB/GLM/KJ**

**Item 15. 15/04 DATE OF NEXT MEETING**

It was confirmed that the next meeting would be held at **11.00am on Thursday 15 April 2004.**

**CHAIRMAN**