

Unconfirmed
THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the eleventh meeting of the Investigating Committee held at **11:00am on Thursday 11th November 2004** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Mr N Willis (Chairman)
 Miss M MacKellar
 Mr P Frowen
 Mr W Munro
 Mrs J Pearce
 Miss G Pearson
 Mr D Whitmore

IN ATTENDANCE:

Miss S Adams, Case Manager
 Mr P Baker, Finance Director
 Ms S Butcher, Secretary to Committees
 Ms N O'Sullivan, Secretary to Council

Item 1.04/48 APOLOGIES FOR ABSENCE

- 1.1 Apologies for absence were received from the following Investigating Committee members; Mr M Barham, Ms C Farrell and Mr C Lea.

Item 2.04/49 APPROVAL OF AGENDA

- 2.1 The Chairman reported that he had added two further matters to the agenda for discussion under any other business. These were: (i) Consistency of Decisions – overview of case outcomes and (ii) Incorrect information on application forms – action required. The Investigating Committee agreed to consider the additional items and approved the agenda.

Item 3.04/50 MINUTES

- 3.1 It was agreed that the minutes of the tenth meeting of the Investigating Committee meeting be confirmed as a true record and signed by the Chairman subject to the amendment of a grammatical error in 17.1.

Item 4.04/51 MATTERS ARISING

4.1 Item 5.2 – Registered Medical Practitioners

- 4.1.1 The Investigating Committee noted that interviews for the recruitment of registered medical practitioners had been scheduled to take place on Wednesday 22nd December 2004.

4.2 Item 5.3 – Education and Training Requirements

- 4.2.1 The Investigating Committee noted that dates had been identified for Miss Pearson and Mr Munro for the completion of their panel training sessions; 2nd and 3rd December and 12th and 13th January 2005 respectively.

4.3 Item 5.5 – Partners

- 4.3.1 The Investigating Committee noted that following feedback from the partners' conference partners were being identified to take part in panel hearings on a rota basis.

4.4 Item 5.6 - Database

- 4.4.1 The Investigating Committee noted work on the database which would track reports submitted by registrants was ongoing.

4.5 Item 5.7 – Award of Costs

- 4.5.1 The Investigating Committee noted that at its last meeting it was clarified by the Director of Fitness to Practise that under current HPC legislation costs could not be awarded to registrants. The Chairman requested that the Executive seek clarification as to whether a registrant could claim costs if an appeal against a decision was successful in the High Court. Similarly if the HPC had a decision upheld in the High Court could costs be claimed against the appellant.

Action: KJ

4.6 Item 5.9 – Screeners

- 4.6.1 The Investigating Committee noted that Council had ratified the decision that screeners were no longer to be used in panel proceedings. The Chairman wished to clarify that screeners could be used at the pre-investigation stage as mediators.

4.7 Item 5.10- Framework on Disabilities, Health and Registration

- 4.7.1 The Investigating Committee noted that the first meeting of the Professional Liaison Group for Health, Disability and Registration had taken place on Friday 29th October 2004. This had been a successful meeting where the Standards of Proficiency issued for each profession had been discussed. A timetable outlining the groups work for the next 6 months was reviewed and the most critical topic areas were identified. The Committee noted that a paper on the groups proposed

timetable would be presented to Council at its next meeting on Tuesday 7th December 2004.

4.8 Item 7.8 – Appointment of Team Administrator to FTP Team

- 4.8.1 The Investigating Committee noted that Miss Emma Pearce had been appointed to the post of team administrator for the Fitness to Practise team on Monday 25th October 2004.

4.9 Item 7.10 – Review Day for Legal Assessors

- 4.9.1 The Investigating Committee noted that the review day for Legal Assessors would be taking place on Wednesday 24th November 2004. The Chairman requested that feedback from this day be made available at its next meeting on Thursday 10th February 2005.

Action: KJ

4.10 Item 7.11 – Timely Submission of Conviction Reports from Police

- 4.10.1 The Investigating Committee noted that the Fitness to Practise team were still in the process of writing to all Chief Constables throughout the U.K. to explain the purpose and role of the HPC. It was hoped this would encourage the timely submission of information regarding convictions lodged against its registrants so that HPC could take action as appropriate.

4.11 7.13 – New Practise Notes for the FTP/Registration Appeals Procedures

- 4.11.1 The Investigating Committee noted that the new practise notes which were being re-drafted in line with the review of the FTP/Registration appeal processes would be submitted to a future meeting of the Investigating Committee and would be put to Council for ratification thereafter.

Action: KJ

4.12 7.14 – Brochures about FTP Processes

- 4.12.1 The Investigating Committee noted that brochures were continuing to be devised by the team which would illustrate the fitness to practise procedures.

4.13 7.15 – Bi-Monthly Meetings with the FTP Forum CHRE

- 4.13.1 The Investigating Committee noted that feedback from the CHRE FTP Forum should be provided to the Committees at its next meeting on 10 February 2005.

Action: KJ

4.14 8.1 – Allegations

- 4.14.1 The Investigating Committee noted that on occasions health professionals were reluctant to make an allegation against another

health professional as they could face a counter allegation. Consideration could be given to including advice on this matter in information issued to those making allegations.

4.15 11.3 – Investigating Committee Procedures

4.15.1 The Investigating Committee noted that the rationale behind investigating panel decisions was now provided in the notices of allegation it produced.

4.16 14.04 – Decision Making

4.16.1 The Committee noted that all Committee Chairmen should be made aware that it was possible for a panel to make an interim suspension order or interim conditions of practise order against a registrant to have immediate effect at the conclusion of a panel hearing.

4.17 16.2 – Role of the Hearing Officer/Case Manager

4.17.1 The Investigating Committee noted that in the previous minutes where it stated that hearing officers '*would indicate whether the HPC Executive had any comment on the matter*' this should be clarified to read that the Executive only commented on factual issues and made no attempt to influence the decision of the panel.

4.18 17.3 – List of Upcoming Papers

4.18.1 The Investigating Committee noted that the following upcoming papers; Witness Support Programme and Restorations were ongoing and would be presented to the committee shortly.

Action: KJ

4.19 18.1 – Self-Referrals

4.19.1 The Investigating Committee noted that the paper on Self-Referrals would be presented to the Education and Training Committee on the 16th February 2005 for their approval. This would be put to Council to note.

Item 5.04/52 CHAIRMAN'S REPORT

5.1 The Investigating Committee received an oral report from the Chairman.

5.2 The Chairman noted that the Partners' Conference held in Manchester on the 23rd September 2004 had been a success and was well received by all. The Conference had provided the opportunity to identify areas for improvement in the selection procedure of panel members used for cases. Some Partners had not been used as frequently as was first anticipated when they signed up to this role. The Fitness to Practise team had therefore now introduced a rota scheme thereby ensuring that all Partners would be selected on a rota basis.

Item6. 04/53 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 6.1 The Investigating Committee noted that in the absence of the Director of Fitness to Practise who was on annual leave, Miss Adams, hearing officer, would be available to answer queries where possible on the Director of Fitness to Practise Report.
- 6.2 The Investigating Committee noted that to date there were 274 active registration appeal cases. The Committee requested that further information should be provided on the reasons for the number of appeals being made. It was noted that all applicants had a right to appeal against a registration decision. The Chairman requested that in the future the Fitness to Practise Report should include a more detailed breakdown and categorisation of the types of appeals received and processed. It was hoped that this would provide information on emerging trends.

Action: KJ

- 6.3 The Investigating Committee noted that the AODP had transferred to the HPC 15 AODP Disciplinary cases. Of those cases 5 were not ODP's. The Committee requested further information on the 5 persons who were not actually ODP's and why the HPC was dealing with such cases when the individuals involved were not eligible for entry to the register. The Committee expressed concern that ODPs who were in the Fitness to Practise process and were therefore not on the HPC register could in theory continue to practice and that therefore the public would not be protected. The Committee requested that this information be provided by the Director of Fitness to Practise at its next meeting on Thursday 10th February 2005.

Action: KJ

- 6.4 The Investigating Committee noted that members of the Fitness to Practise team had met with various organisations such as the CRHE at their regular monthly forums, East Midlands Ambulance Service and Kingsley Napley Solicitors. Meetings were scheduled to take place with the NMC, Hampshire Ambulance Service and the Association of Clinical Scientists. The Investigating Committee noted that the purpose behind such meetings was to discuss matters of mutual concern. The NMC for example operated similar procedures as the HPC and was therefore found to be useful in assisting each other in identifying best practise. Reports on the meetings will be presented at the next Investigating Committee.
- 6.5 The Investigating Committee noted the statistical reports for hearings by profession, panel hearings and pending hearings. The Chairman requested that in future statistical reports the headings were typed in

full and the abbreviated titles such as ICC, CCC, HCC and FYE were explained in a glossary.

Item 7.04/54 DATES OF FORTHCOMING INVESTIGATING COMMITTEE MEETINGS 2005/06

- 7.1 The Investigating Committee received a paper from the Secretary to the Committee outlining suggested dates for forthcoming meetings, for discussion/approval.
- 7.2 The Investigating Committee approved the proposed dates for its meetings scheduled in 2005-06 and recommended these to Council for ratification.

Action: SB

Item 8.04/55 SELF-REFERRALS

- 8.1 The Investigating Committee received a paper for discussion/approval.
- 8.2 The Investigating Committee discussed the paper on self-referrals by registrants and a number of points were addressed for review. The Investigating Committee noted the statement contained in the paper that 'registrants must inform the Council if they are convicted of a criminal offence (other than a motoring offence). The Committee noted that for some professions such as paramedics, a motoring offence (for example receiving fixed penalty points on a license) could impair such registrant's abilities to effectively carry out their duties on a day to day basis. Furthermore if fixed penalty points accumulated over time, a licence could be revoked and the paramedic would therefore not be able to fulfil a crucial part of their job function. The Committee agreed that clarification was needed to specify that the HPC should be made aware of such offences as it did affect a registrants' ability to practise effectively. The Committee also agreed that the employer should be made aware of these offences. The Committee noted that they were not requesting notification of all convictions as some might be minor in nature and not related to the Standards of Conduct, Performance and Ethics (SCPE) against which HPC applicants and registrant's professional good practise was measured. The Investigating Committee therefore requested that further advice be sought from the HPC's solicitor to clarify categories of convictions that registrants should declare to HPC when those offences were in contradiction to the (SCPE). The paper should be amended to incorporate the changes requested and should be circulated to the Committee electronically for comment. The Committee discussed the possibility of putting in place a timescale in which relevant convictions were flagged for disclosure and specifying an expiry date when this was no longer necessary but also noted that the HPC was exempt from

the Rehabilitation of Offenders Act and that therefore no conviction could be regarded as spent.

Action:KJ

- 8.3 The Investigating Committee noted that declaration of information relating to health had been referred to in the first paragraph of the executive summary and recommended that this should also be detailed in the subsequent bullet points for consistency.
- 8.4 The Investigating Committee requested clarification of the term 'double jeopardy' used in the paper.
- 8.5 The Investigating Committee approved the self-referrals paper in principle subject to its revision (incorporating the advice requested from the HPC's solicitor) The Investigating Committee agreed that the revised draft should be included on the agenda of its next meeting on Thursday 10 February 2005 and that any final amendments could be reported to the Education and Training Committee when it considered the document at its meeting on 16 February 2005. It would then go to Council for note.

Action: SB/KJ

Item 9/04/56 ANY OTHER BUSINESS

- 9.1 The Investigating Committee noted two items of any other business. These were:
- (i) Consistency of decisions – overview of case outcomes
- 9.2 The Investigating Committee noted that a procedure was required whereby it could ensure that the decision-making process as undertaken by its panels was consistent and fair. The Committee agreed that an audit trail should be established and discussed the various ways in which this could be achieved. The Executive would explore whether this information could be ascertained from HPC's existing databases. Training for Chairmen and Partners was also highlighted as an effective way forward. This would help to underline the importance of maintaining consistent decision making practises and demonstrate the processes by which these were achieved. The Committee noted that ideas for further training could be identified at the Legal Assessors Review day on the 24th November 2004. The Committee agreed that the Executive would prepare a paper on this issue for consideration at the next meeting.

Action: SB/KJ/RD/GR-S

- (ii) Incorrect information on application forms – action required

- 9.3 The Chairman reported on a possible scenario whereby an overseas applicant indicated that English was their first language on their application form when it transpired that it was not. The Committee noted that if a letter of allegation was received this would be dealt with as a fitness to practise issue. The Committee noted that if the HPC became aware of such a situation there was provision under Article 22(6) of the HPO 2001 for the Chief Executive to activate the procedure whereby the registrant could be removed from the register for fraudulent entry. The Committee noted that there were cases where individuals did not make formal written complaints for fear of being sued.

Item 10.04/57 DATE AND TIME OF NEXT MEETING

- 10.1 The next meeting of the Investigating Committee would be at 11:00am on Thursday 10 February 2005.

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