

Health Professions Council

SCHEME OF DELEGATION

1. Introduction

- 1.1. This scheme of delegation ('the Scheme') is intended to facilitate the efficient and effective functioning of the Health Professions Council ('the Council').
- 1.2. The Scheme is designed to ensure that, so far as possible, the Council and its committees set policy and strategy and that the Executive implements that policy and strategy and is responsible for all operational matters.
- 1.3. The Scheme sets out:
 - those decisions which the Council has reserved to itself;
 - those decisions which it has delegated to its Education and Training Committee;
 - those decisions which it has delegated to the Chief Executive and Registrar ('the Chief Executive'), some of which may also be exercised by nominated officers of the Executive or by persons nominated by the Chief Executive;
 - those decisions which it has delegated to other nominated officers of the Executive.
- 1.4. The Executive, under the direction of the Chief Executive, remains responsible for day to day administration of the Council's affairs and nothing in the Scheme applies to any decision which is administrative in nature.

2. Withdrawal of delegated power

- 2.1. The Scheme remains in force unless and until it is amended or revoked by the Council.

- 2.2. The requirement to amend or revoke the Scheme does not apply to a matter in relation to which the Council is of the opinion that delegated authority should not be exercised. In that event, the Council may resolve that delegated authority shall not be exercised in relation to that matter.

3. Exercise of delegated power

- 3.1. Where power is delegated under the Scheme, the power must be exercised in a manner which is consistent with the Council's obligations under the general law and the Health Professions Order 2001 ('the 2001 Order').
- 3.2. In particular, the decision maker must have regard to Article 3(4) of that Order, which provides that the main objective of the Council in exercising its functions is to safeguard the health and well-being of persons using or needing the services of registrants.
- 3.3. The decision maker must also recognise that lawful exercise of a statutory power requires not only formal compliance with the conditions laid down for its performance but also with the principle that all statutory powers must be exercised in good faith and for their proper purpose.
- 3.4. Delegation does not impliedly authorise sub-delegation. Consequently, a Committee or person to whom the Council has delegated any power may not permit another Committee or person to exercise that power unless the Council has expressly authorised them to do so.

4. Matters reserved to Council

- 4.1. The Council retains ultimate responsibility for all policy matters including agreeing the overall strategy for the performance of its functions.
- 4.2. The power to make Rules is specifically reserved to the Council by Article 3(12) of the 2001 Order and cannot be delegated.
- 4.3. The Council retains responsibility for the following decisions which, to the extent that it is lawful to do so, may only be delegated by means of a specific resolution of the Council:
- establishing the Standards of Proficiency, Standards of Conduct, Performance and Ethics, Standards of Education and Training and Standards of Continuing Professional Development;

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- prescribing good conduct and good character requirements for safe and effective practice;
- establishing criteria for the purpose of Article 13 of the 2001 Order (“grandparenting criteria”) and Article 15 of that Order (“approvals criteria”);
- making recommendations to the Secretary of State concerning the regulation of any profession;
- making any proposal to the Privy Council concerning the structure of the register;
- approving any report or accounts to be submitted to the Privy Council or the Secretary of State;
- setting the fees to be charged for or associated with registration (including renewal, readmission, restoration and scrutiny fees);
- establishing any committee or sub-committee and making the Standing Orders for any committee or sub-committee;
- appointing members to any committee or sub-committee (other than the appointment of persons to a panel of the Council or a Practice Committee to hear a specific registration appeal or fitness to practise case);
- appointing or removing the Chief Executive;
- appointing members to the Council following an election or to fill vacancies;
- appointing members to represent the Council on outside bodies;
- entering into any arrangements with a body created or designated by the National Assembly for Wales under Article 20 of the 2001 Order;
- acquiring or disposing of any freehold or leasehold interest in land and property or other interest in land;
- re-structuring the Council’s staff where the changes involve ten or more employees.

4.4. The Council is also responsible for making decisions in relation to any matter:

- in which a person who would otherwise have delegated authority to act has an actual or potential interest;
- which, in the opinion of the Chief Executive, would for any reason be more appropriately dealt with by the Council.

5. Matters delegated to the Education and Training Committee

- 5.1. Approving, for the purpose of Article 12 of the 2001 Order, qualifications awarded in the United Kingdom which attest to the Standards of Proficiency required for admission.
- 5.2. Maintaining and publishing the Council's list of approved courses of education and training, qualifications and institutions.

6. Matters delegated to the Chief Executive

- 6.1. Maintaining the register and establishing arrangements for its publication and inspection.
- 6.2. Issuing certificates of good standing to registrants who wish to practise in another EEA State.
- 6.3. Referring any fitness to practise allegation received by the Council to a Practice Committee or to Screeners. This power may also be exercised by the Director of Fitness to Practise.
- 6.4. Exercising the power under Article 22(6) of the 2001 Order to refer a matter for investigation as if it was the subject of an allegation.
- 6.5. Appointing, at the request of a Council or Practice Committee Panel, registrant assessors and medical assessors in respect of any registration appeal or fitness to practise proceedings.
- 6.6. Prosecuting offences under Article 39 of the 2001 Order (but subject to any prosecution policy established by the Council). This power may also be exercised by the Director of Fitness to Practise.

- 6.7. Conducting and defending all proceedings brought by or against the Council in any court, tribunal or arbitration other than registration appeals or fitness to practise cases but including proceeding under section 29 of the NHS Reform and Health Care Professions Act 2002.
- 6.8. Advising the Privy Council that a person has ceased to be a member of the Council. This power may also be exercised by the Secretary to the Council.
- 6.9. Maintaining and publishing the register of members' interests. This power may also be exercised by the Secretary to the Council.

7. Matters delegated to the Chief Executive and any officer nominated by the Chief Executive

- 7.1. Determining applications for registration (but subject to any policies or procedures established by the Council or the Education and Training Committee).
- 7.2. Issuing certificates of competence for the purposes of the Prescription Only Medicines (Human Use) Order 1997.
- 7.3. Determining and administering the Council's employment procedures and processes.
- 7.4. Arranging any insurance on behalf of the Council where either the value of the premium payable does not exceed £50,000 or the renewal premium payable does not exceed the previous premium by more than 10%.
- 7.5. Tendering, awarding and varying contracts where, in relation to contracts for building, construction or engineering works, the estimated total value is less than £25,000 and in all other cases where the estimated total value is less than £10,000
- 7.6. Approving the terms of any other agreement or transaction of a minor or urgent nature which, in the opinion of the Executive, is in the best interests of the Council.
- 7.7. Managing any property owned by the Council or in which the Council has an interest including the submission of planning and building consent applications.

8. Matters delegated to the Director of Fitness to Practise

- 8.1. Appointing the members of any Council and Practice Committee Panel appointed to hear a registration appeal or conduct fitness to practise proceedings. Subject to any requirements of the 2001 Order concerning the composition of such Panels, members of a Panel shall be chosen by a random process.
- 8.2. Appointing, by means of a random process, the legal assessor who is to be present at any registration appeal or fitness to practise proceedings.
- 8.3. Conducting and defending all proceedings brought by or against the Council in relation to fitness to practise and registration appeals cases.
- 8.4. Publishing the particulars of orders and decisions (and the reasons for them) made by Council or Practice Committee Panels.
- 8.5. Requiring a person to comply with Article 25(2) of 2001 Order (certain information to be provided by a registrant who is the subject of an allegation). This power may be exercised by any person nominated by the Director of Fitness to Practise.
- 8.6. Seeking an extension by a court under Article 31(8) of the 2001 Order, of an interim order made by a Practice Committee.
- 8.7. Appointing authorised persons for the purpose of Article 37(7) and, by virtue of that provision, Article 25(1) of the 2001 Order in relation to registration Appeal proceedings.

9. Matters delegated to the Director of Education and Policy

- 9.1. Appointing Visitors to visit any place or institution for the purposes of Part IV of the 2001 Order (education and training). Subject to any requirements of that Part concerning the composition of Visitor panels, Visitors shall be chosen by a random process.
- 9.2. Publishing Visitors' reports and any responses to such reports (where the respondent has asked for it to be published).

10. Matters delegated to the Director of Finance

In conjunction with the Chief Executive, who is the Council's Accounting Officer:

- keeping the accounts and preparing the annual accounts of the Council in accordance with Article 46 of the 2001 Order;
- administering the Council's finances including, but not limited to, the day to day control and regulation of those finances.

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