

**Health Professions Council**  
**Fitness to Practise Committees – January 2007**

**Website Information**

**Executive Summary and Recommendations**

**Introduction**

The Committee is asked to consider the scope and nature of the information that is provided in relation to Fitness to Practise cases on the HPC website. The Committee is asked to discuss a number of options and proposals in relation to the information that is provided there.

When HPC was first established, the view taken was that the organisation should depart from past behaviour and adopt open and transparent processes, including publishing virtually all information relating to fitness to practise cases. This open and transparent approach was broadly welcomed by many stakeholders. However, some concerns have been identified regarding the extent of the information that is published, so now is an appropriate time to undertake a review.

A common theme in all of the comments regarding the HPC's current approach is that it is disproportionate and fails to strike the right balance between public access to information and the registrant's rights to privacy. It has been pointed out on several occasions that publicly available information should not always be regarded as synonymous with publication of information.

**Decision**

The Committee is asked to consider the options below and, if it sees fit, to recommend an option to the Council.

- 1. No change** – Currently the name of the registrant, their registration number and the particulars of the allegation are placed on the HPC website as soon as the Investigating Panel has made a case to answer decision. The date of the hearing is placed on line as soon as it is fixed. When an allegation is well founded the notice of decision and order and a redacted copy of the transcript (the removal of address details and patient identifiable information) is placed online. All cases where an interim order has been imposed are also placed on line

This means that information relating to, as yet unproven, allegations are placed on line for a period of up to a year (in some cases) before a hearing is fixed.

Article 29 (1) of the Health Professions Order 2001 (the 2001 Order) provided that 'If, having considered an allegation, the Health Committee or the

Conduct and Competence Committee, as the case may be , concludes that it is not well founded –

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect giving its reasons;
- (b) in any other case and with the consent of the person concerned may make such a declaration.

Article 29(2) goes on to say that ‘for the purposes of paragraph (1) the publication of the decision mentioned in article 32(2)(k) and the reasons for it may constitute such a declaration.’ Articles 32(2)(k) and (l) provide that the Committee must notify the person concerned and the person who made the complaint of its decision and its reasons for making that decision.

If a person does not provide their consent for such a declaration to be made (the usual place for such a declaration is on the HPC website in the complaints section), all details relating to them are removed immediately. In some instances, this means that information is removed after being online for a year or more.

However, as the hearing is held in public, if a copy of the notice of decision and order is requested by any individual, HPC is obliged to provide a copy.

2. **No information on line** – remove all information relating to cases from the website and only provide it on request or on publication of the HPC Fitness to Practise Annual report.

In the age of electronic communication, it is doubtful that this would be a defensible position. This is particularly so given HPC’s obligations under Article 3 (13) of the Order which states that ‘The Council shall inform and educate registrants, and shall inform the public, about its work.’ One of the key media that HPC has chosen to use to undertake this duty is through the HPC website.

3. **Middle ground** - All decisions and orders where the allegation has been well founded would continue to be placed on line and hearing dates would be placed on line either four weeks before the hearing or as soon as the hearing date is fixed. Interims orders decisions would be posted on line as at present.

## Hearing dates

If the middle ground is chosen, the Committee and subsequently the Council is asked to advise the Executive whether all information relating to cases where a hearing has not been fixed and consider the position with regards to when the dates of hearings should be placed on line.

## Decision

- (a) **Remove all cases where a hearing has not been fixed from the website,**

**(b) All cases where a hearing date has been fixed placed on line as soon as the date is for hearing is fixed; or**

**(c) Hearing dates to be placed on line four weeks in advance of the date fixed for hearing.**

## **Transcripts**

The Committee is also asked to consider the position in relation to transcripts.

The Executive recommend that transcripts (redacted if appropriate) should be made available on request. Transcripts of hearings were originally placed on line to help explain the decision reached by the panel. However, decisions are now much more detailed so the Executive does not see the need to continue with this practice. Furthermore, this is a practice which is undertaken by only one other UK Healthcare regulator and is not followed by other tribunals or courts.

## **Decision**

However, the Committee/Council may wish to continue with the position of placing transcripts online and if the Committee/Council does recommend option three, it is also asked to consider whether:

- (a) transcripts should continue to be placed on line; or
- (b) transcripts should not be placed on the website and all historic transcripts should be removed.

## **Background information**

Article 32(j) of the 2001 Order provides that ‘hearing before a Committee to be held in public except in so far as may be provided by the rules’.

Article 22(9) provides that ‘The Council shall publish as soon as reasonably practicable particulars of any orders and decisions made by a Practice Committee under article 26(7) or (12), 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 and of its reasons for them and of any decision given on appeal.’

Article 32 (2)(h) of the 2001 Order states that ‘where an allegation is referred by the Council, Screeners or the Investigating Committee to the Health Committee or the Conduct and Competence Committee, for the Council to give notice of that referral to specified persons who shall include the Secretary of State, the Scottish Ministers, the National Assembly for Wales and the Department of Health, Social Services and Public Safety in Northern Ireland, and where they are known, to any person referred to in article 25 paragraph (2)(a) or (b).

We also issue an “alerts” list of all cases where a sanction or interim order has been imposed, where a hearing date has been fixed or when a case to answer decision has been reached. This is distributed to selected organisations and to those who request it every two months.

HPC provide the notices of decision and order, copies of the exhibits and a copy of the transcript in all Conduct and Competence Committee cases to CHRE. CHRE consider all Conduct and Competence Committee cases in line with their Section 29 powers.

The Communications department send a media schedule of upcoming hearings on a weekly basis for the following weeks hearings to our media contact list.

The Executive has also undertaken a scoping exercise in relation to the practice of the nine United Kingdom Healthcare Regulators and can provide the committee with the following information:

### **General Medical Council**

The GMC list hearings that are taking place in the current month. There is a calendar of hearings. The GMC also publish the notice of decision and order of its cases online. Transcripts are not available on line. However, to search historic fitness to practise decisions a person needs to know the name of the registrant. There is also a search engine for interim order decisions. Interim order decisions can also be searched by month.

### **General Chiropractic Council**

No information on line at present.

### **General Dental Council**

The GDC list current, upcoming and recent hearings. Two weeks in advance of each block of hearing dates, the names of the cases are placed on line. Interim order information is also available on line. No transcripts are published on the website.

### **Nursing and Midwifery Council**

The NMC provide a list of cases listed for hearing before their FTP committees and cases that have already been heard. They provide the notices of decision and order. There are no transcripts on line. There is also a separate section for interim order decisions.

### **General Optical Council**

GOC hearings take place over one week in every month (except December and August). The Notice of Inquiry is placed on line four weeks before the date of the

hearing. There is also a list of recent hearings with a copy of the decision and a copy of the transcript.

### **General Osteopathic Council**

Hearing dates are placed on the website 28 days in advance of the hearing. Notices of decision and order are placed on line as are interim order decisions. There are no transcripts.

### **Pharmaceutical Society of Northern Ireland**

No information on line at present.

### **Royal Pharmaceutical Society of Great Britain**

Details of decisions are on line. There are no transcripts.

### **Resource implications**

None

### **Financial implications**

None

### **Appendices**

None

### **Date of paper**

10<sup>th</sup> January 2007