

Fitness to Practise Forum 23 April 2008

Health and Character Review

Executive summary and recommendations

Introduction

Following a review of the Health and Character process undertaken by the Executive, on 26 March 2008 the Education and Training Committee agreed to proposals to produce guidance for applicants, registrants and education providers (similar to the guidance provided for all parties concerning disabled people and registration) on the health and character process. This guidance will include:

- Information about the process adopted when a declaration is made;
- How the declaration is considered;
- What information is likely to be taken into account;
- What issues HPC considers do not need to be considered by a panel.

The Committee also agreed that formal guidance should be produced for Registration Panels to be available to partners when they sit in this capacity.

The Committee will consider this documentation at its meeting in September.

Decision

The Forum is requested to note the document. No decision is required.

Background information

Please see attached paper

Resource implications

Please see attached paper

Financial implications

Please see attached paper

Appendices

Health and Character Review

Date of paper

3 April 2008

Health and Character Review

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1. Introduction

In June 2007, the Education and Training Committee considered and agreed proposals and timescales for a review of the health and character process. It was agreed that a paper would be provided to the Committee at its meeting on 26 March 2008, providing an analysis of the process, the cases that have been considered and proposals for guidance.

1.1. Background

In May 2005, the Council approved the policy and procedure that HPC should adopt when considering the following matters:

- health and character declarations on application for admission or re-admission to the register
- health and character declarations on renewal of registration
- self referral of health or character issues by registrants

This process has been in operation since June 2005. When HPC receives a declaration as set out above, the information is considered by a Registration Panel who acts on behalf of the Education and Training Committee in a similar way to Registration Assessors. Panels meet once a month per profession, however, the HPC endeavours to hear cases as quickly as possible and will utilise panels that are meeting for other purposes to hear cases where possible.

A review has been undertaken of the types of cases HPC has received, and the decisions that Registration Panels have reached. The appeals that have resulted from the health and character process and the cases that have been referred to the fitness to practise process have also been examined.

1.2. Structure of the report

This report has been structured to provide detailed information about the 3 types of declaration made to HPC:

- Declarations on admission/re-admission to the register;
- Declarations on renewal of registration; and
- Self referrals.

Each area is then divided into the types of issues declared (i.e. health, character and convictions/cautions). Any significant patterns or trends are highlighted and there is brief discussion about appeal and fitness to practice referrals where relevant.

The report then discusses, in detail, the outcome of appeals that have resulted from Registration Panel decisions concerning declarations on admission, readmission and renewal. Although there is some repetition of information from earlier sections of the report, it ties together the detailed information regarding the appeals received.

Following this, referrals to the fitness to practise process from self referral cases are examined. Again, there is some repetition from the self referral section of the report, but this is necessary to provide an overall analysis of the information.

The report then discusses the resources that are required to operate the process. Finally, conclusions and recommendations are made about the health and character process and what guidance should be produced.

2. Declarations on Admission/Re-admission to the Register

When an individual applies to the register, they are required to declare any health or character issues, including any previous convictions or cautions and any disciplinary action that may have been taken against them. These cases also include circumstances where information was sent to the HPC about the applicant before they applied, or while their registration had lapsed. These individuals are entered on the watch list which notifies the Registration Advisor when an application is entered on the registration system.

A Registration Panel will consider each case on its merits in line with the Council's Health and Character policy. The decision that the panel is asked to make, is whether the applicant's registration should be allowed. Should the panel decide not to allow the application, there is a right of appeal to Council. Where an appeal is received, it is dealt with through the Registration Appeal process which is administered by the Fitness to Practise Department.

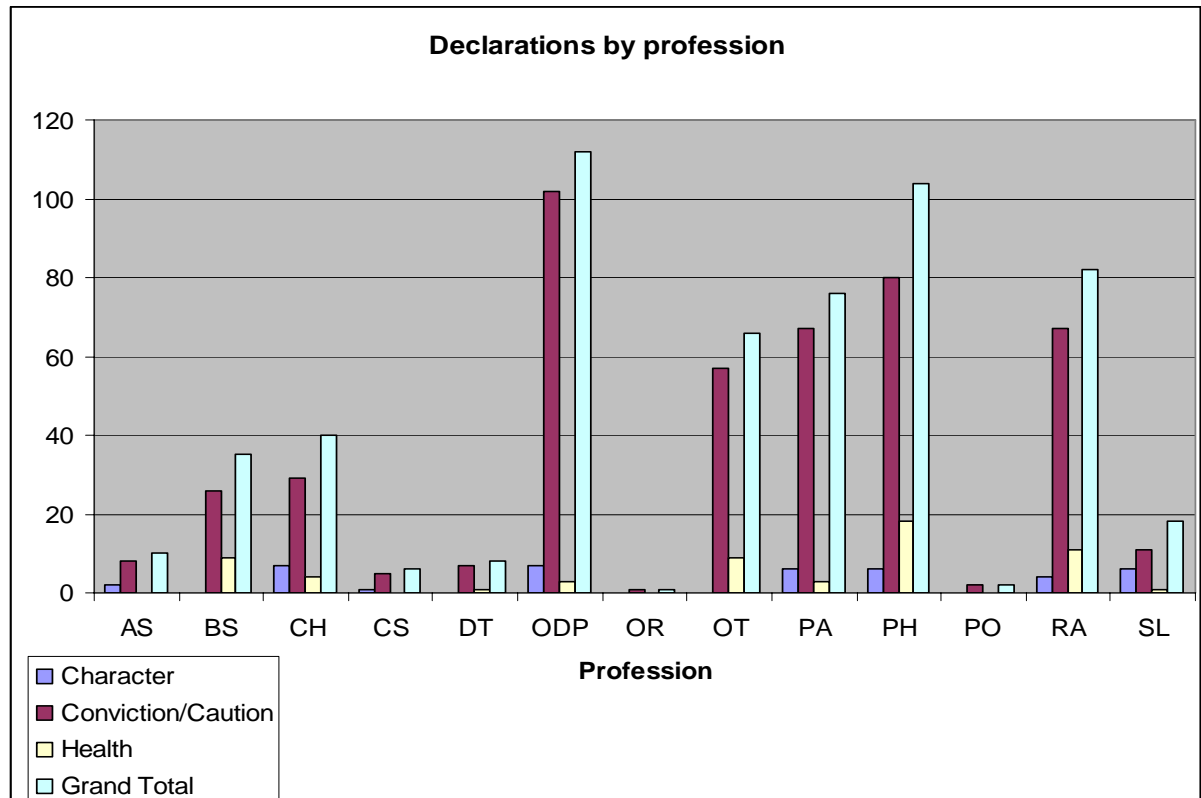
Between June 2005 and December 2007, 560 declarations made on admission or readmission to the register were concluded. This number does not include cases that are on-going. The number and types of cases are shown in the table below.

| | Health | Character | Conviction/caution | Totals |
|---|---------------|------------------|---------------------------|---------------|
| Cases received | 59 | 39 | 462 | 560 |
| Cases considered by panel | 3 | 35 | 457 | 495 |
| Cases admitted to the register | 2 | 26 | 446 | 474 |
| Cases not admitted to the register | 1 | 9 | 9 | 19 |

Table 1– Total declarations made on admission or readmission to the register between June 2005 and December 2007

The average time for a declaration on admission to reach a registration panel is 22 days. This includes the 14 days notice of the date of the panel, which is given to the applicant should they wish to provide any further submissions.

Operating Department Practitioners have the highest number of declarations on admission or readmission to the register for an individual profession, with Orthoptists and Prosthetists and Orthotists, the lowest. The graph below shows the breakdown by profession.



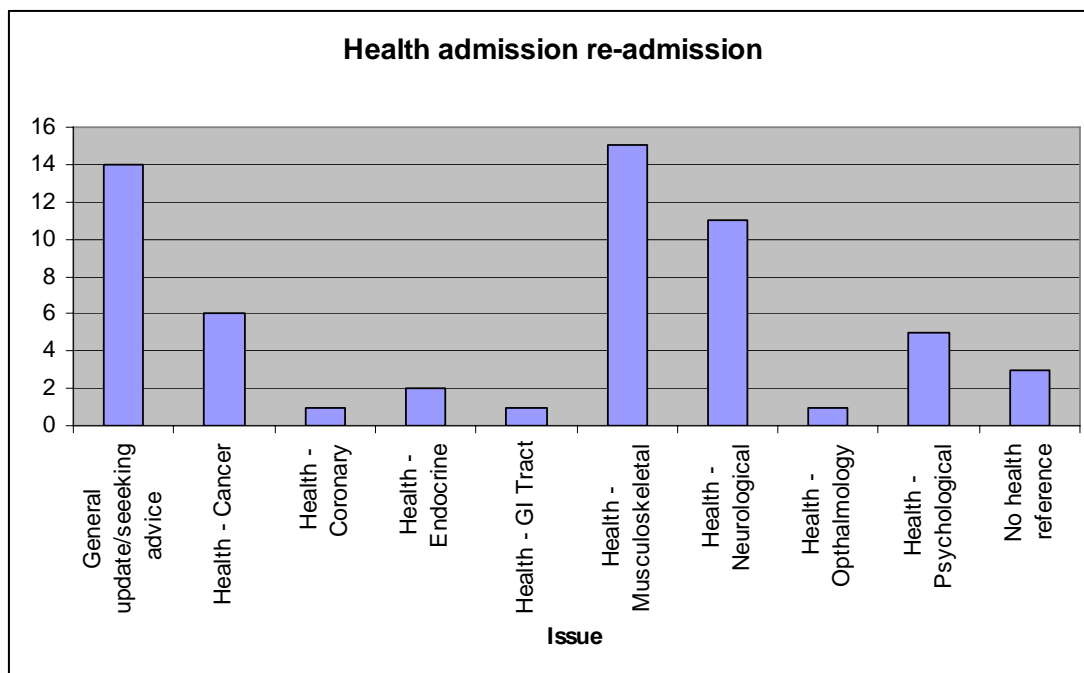
Graph 1 - Declarations made on admission or readmission to the register by profession

2.1. Health

On admission to the register, every applicant must provide a health reference from a registered medical practitioner. Where a health reference has been provided with no adverse comments, HPC will not ask a Registration Panel to consider the case, even where the applicant has declared a health issue. This is because the registrant is seen to have insight and will be trusted to manage their fitness to practise accordingly.

HPC has provided guidance to applicants and doctors in relation to completing the health reference in a document entitled “Information about the health reference” and has also provided guidance to employers and registrants in a document entitled “Managing your fitness to practise”.

The nature and frequency of the issues declared can be seen in the graph below. The issues have been categorised to provide an overview of the nature of the conditions declared.

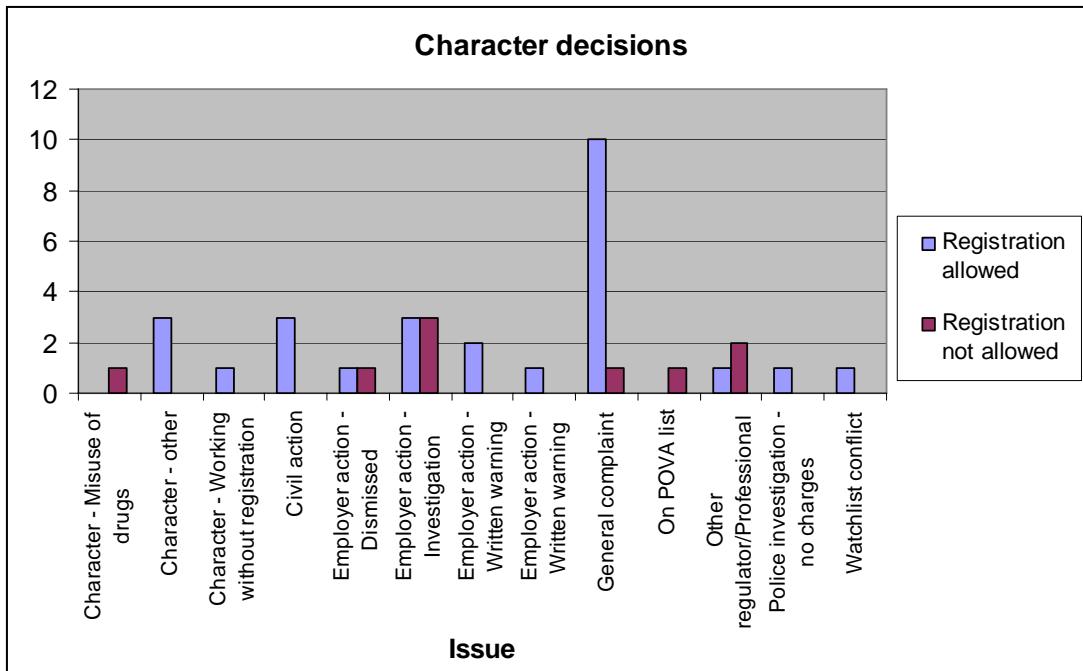


Graph 2 – Health declarations made on admission or readmission to the register

Only 3 health cases have been considered by Registration Panels since June 2005. In 2 cases the applicants were allowed onto the register. The health case that was refused, related to a registrant with alcohol dependency and concerns had been raised by his employer in advance of his application and by his GP in the course of his application. The applicant subsequently appealed the decision and the appeal was allowed. The panel was satisfied that the issues had been addressed by the applicant. (More detailed information about appeals is provided later in the report).

2.2. Character

Only 39 of the 560 declarations on admission and renewal related to general character issues. The graph below shows the types of cases, and the panel decisions.



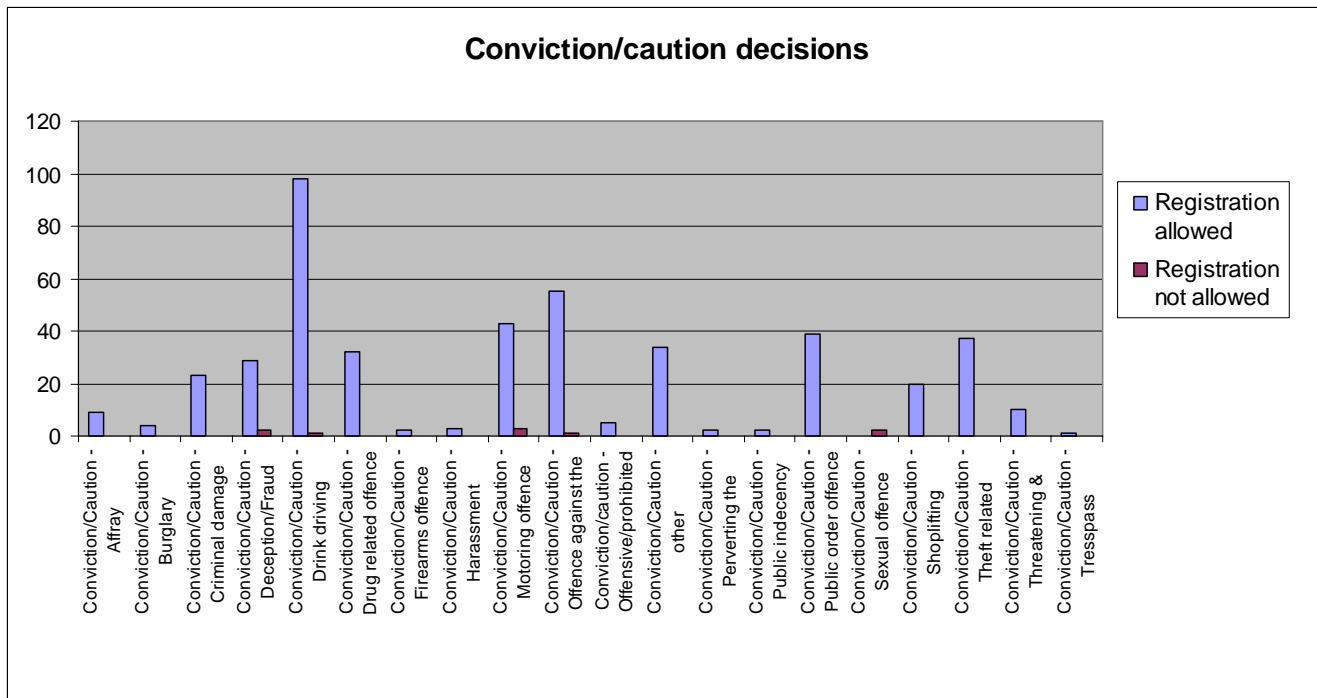
Graph 3 – Character declaration decisions made on admission or readmission to the register

Of the cases considered by panels, 9 were refused registration. The cases where the panel decided not to allow registration related to misuse of drugs, dismissal by the employer, entry on the protection of vulnerable adults list, regulatory proceedings by another body and clinical competence.

Registration appeals were received from 7 of the applicants against that decision not to allow their registration. Of those appeals, 1 was withdrawn, 4 were allowed and 2 were dismissed.

2.3. Convictions/cautions

Of the 560 admission and readmission cases, 462 related to a conviction or caution. This is by far the most common type of issue declared on entry to the register. 457 cases have been considered by a Registration Panel and of those cases, only 9 (2%) were considered serious enough to not be allowed entry to the register. This was mostly where there had been multiple offences (only the most recent or most serious is detailed in the graph below) or it was a sexual offence. The graph below shows the nature of the cases considered and the decisions of the panels.



Graph 4 – Conviction/caution declaration decisions on admission or readmission to the register

Of the applicants whose registration was refused, 7 appealed the decision. 4 appeals were allowed, 2 were dismissed and 1 was withdrawn. Of the appeals that were allowed, 1 was for drink driving, 1 was for driving without insurance, 1 was for numerous motoring offences and 1 applicant had 4 convictions for assault. The 2 appeals that were dismissed were for multiple fraud and theft convictions and a sexual offence.

3. Declarations on Renewal of Registration

Every two years, registrants are required to renew their registration. This involves making a declaration that:

- they continue to meet the HPC's standards of proficiency for the safe and effective practice of their profession; and
- there have been no changes to their health or relating to their good character which they have not advised HPC about and which would affect their safe and effective practice of their profession.

Where a declaration is made on renewal, the case is considered by a Registration Panel in the same way as a declaration on admission/readmission to the register. The decision that the panel is asked to make is whether the registrant should be allowed to renew their registration. If the panel does not allow renewal of registration, there is a right of appeal to the Council against that decision.

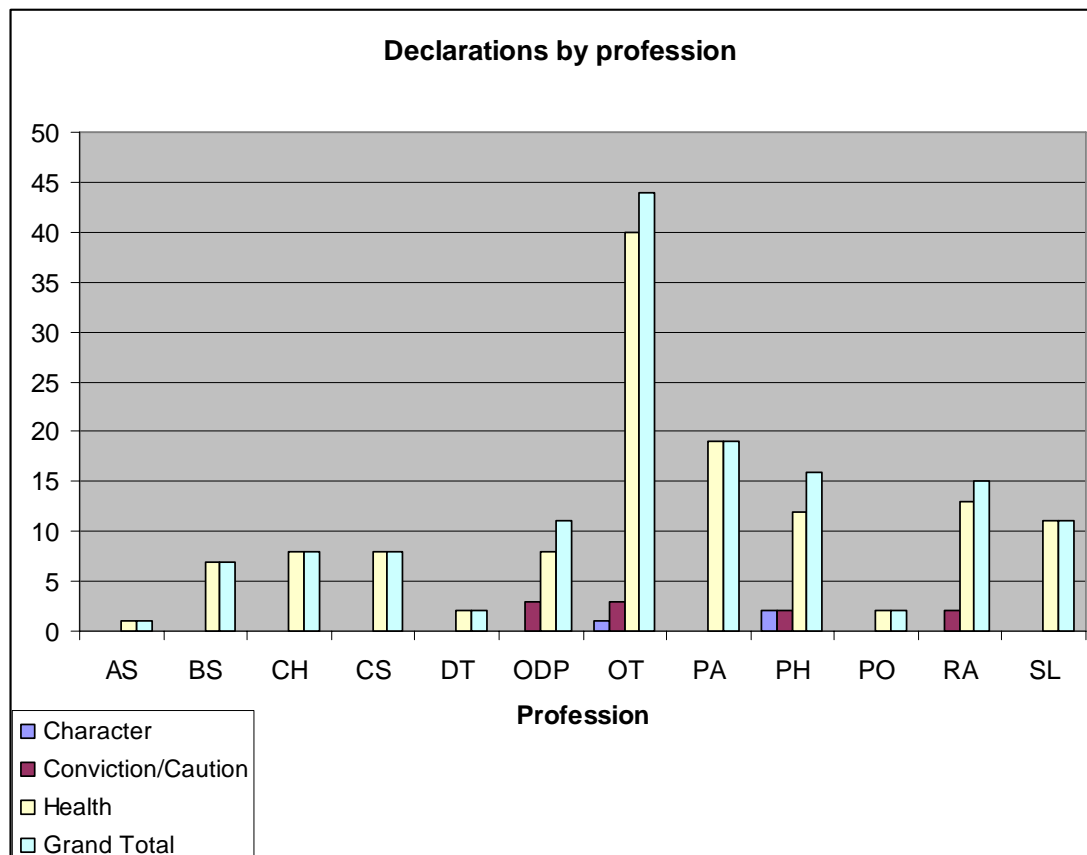
A total of 144 declarations have been made on renewal since June 2005. The vast majority of cases are related to health. A breakdown of the types of cases received is given in the table below.

| | Health | Character | Conviction/caution | Totals |
|---|--------|-----------|--------------------|--------|
| Cases received | 131 | 3 | 10 | 144 |
| Cases considered by panel | 2 | 1 | 10 | 13 |
| Cases admitted to the register | 2 | 1 | 9 | 12 |
| Cases not admitted to the register | 0 | 0 | 1 | 1 |

Table 2 – Total declarations made on renewal of registration between June 2005 and December 2007

It takes an average of 19 days for a declaration on renewal to reach a panel. This includes the 14 days provided to the registrant to make further representations to the panel.

The graph below details which professions have declared an issues on their renewal form. Occupational Therapists have declared more issues on renewal than any other profession.



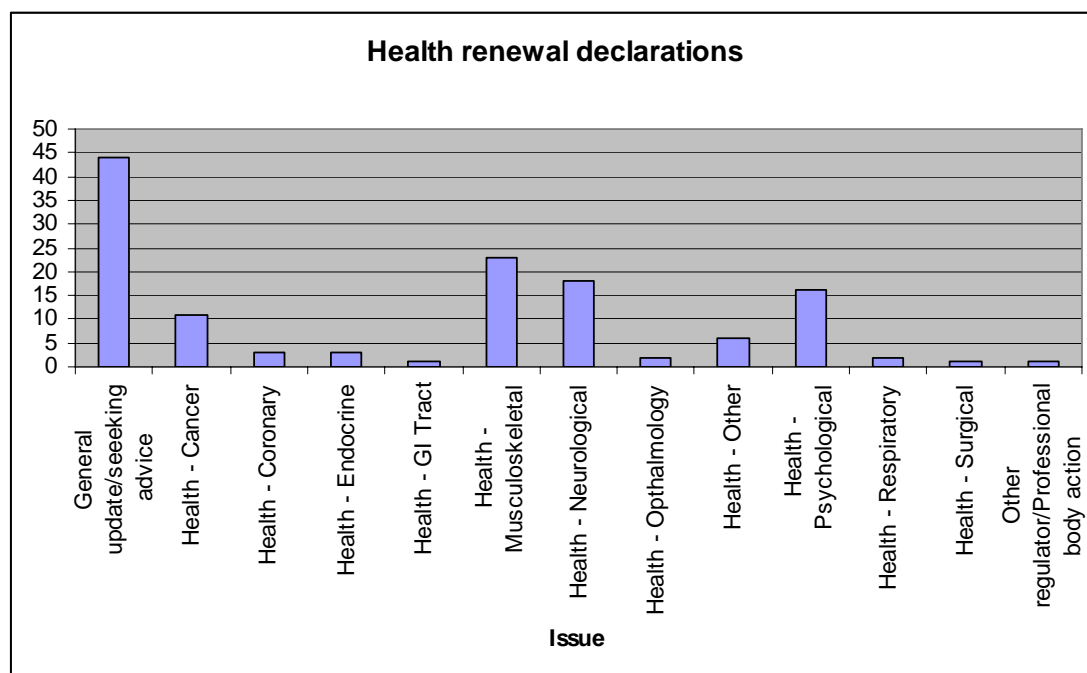
Graph 5 - Declarations made on renewal of registration by profession

3.1. Health

Health issues form the majority of the renewal declarations made by registrants. Generally, registrants are simply providing HPC with an update of their health condition, or are seeking general advice and guidance as to what should be declared. In most instances they are still fit to practise as they are managing their condition and adapting their practice where necessary. The declaration only asks for information relating to health where it “would affect your safe and effective practice of your profession”. However, most of the health issues do not affect the registrant’s safe practice.

Only 2 health cases on renewal have been considered by a registration panel. One case related to an alcohol dependency issue, and the other to a registrant whose condition was still in the early stages of diagnosis and at the time the registrant was certified unfit to practise by their GP. The Registration Panel allowed the registrants to renew their registration in both cases.

A graph showing the categories of health condition declared is below. In the majority of cases, registrants are seeking general advice or providing a general update. In other cases specific issues are declared.



Graph 6 – Health declarations made on renewal or registration

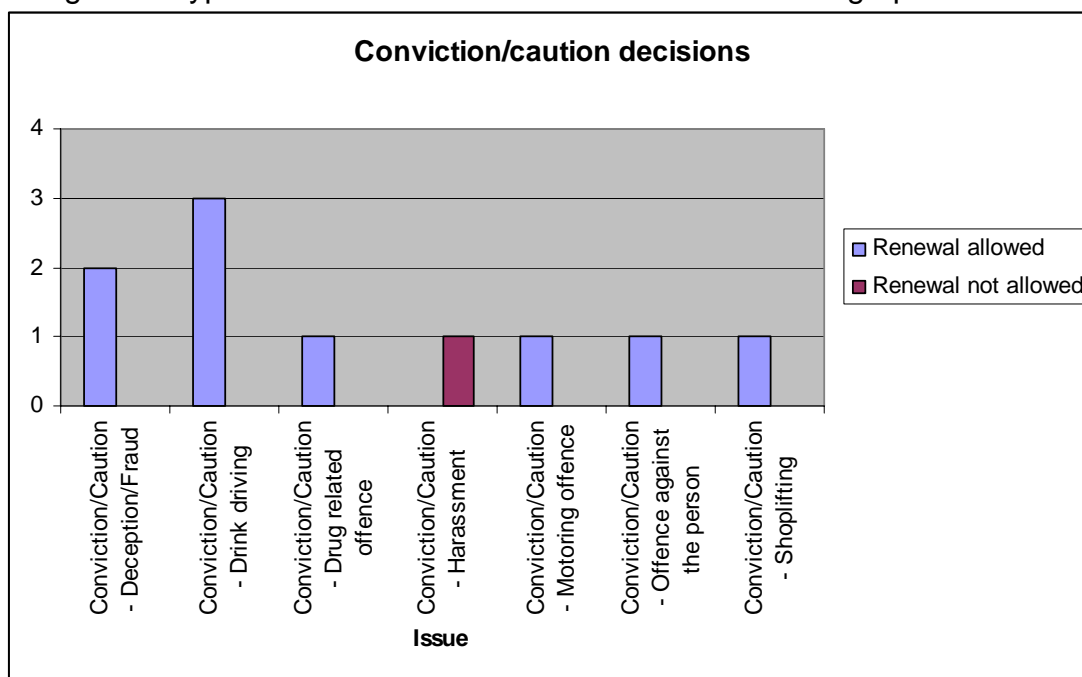
3.2. Character

Only 3 of the cases received on renewal related to general character issues. Of those only 1 was considered by a panel as the other matters were not of concern to HPC. The issue considered by the panel related to a civil court action and the panel allowed the renewal of their registration.

3.3. Convictions/cautions

10 of the 144 declarations on renewal related to convictions or cautions, all of which were considered by a panel. Only 1 registrant was not permitted to renew their registration. This conviction related to harassment and the registrant subsequently appealed the decision and then withdrew this appeal.

The general types of conviction declared are detailed in the graph below.



Graph 7 – Conviction/caution declaration decisions made on renewal or registration

The low number of convictions declared on renewal is likely to be due to the fact that the self referral process is operating successfully and registrants are not waiting until renewal to declare these matters to HPC. Also, HPC are informed of all convictions and cautions under the Home Office circular 06/2006 and such cases are dealt with through the fitness to practise process.

4. Self Referrals

When an individual is on the register, HPC encourages self declaration of any issues that may affect their fitness to practise. Standard 4 of the current standards of conduct, performance and ethics states that:

“You must provide any important information about conduct, competence or health.”

When a self referral is received, the case will initially be considered by a Registration Panel under the Council’s Health and Character policy. The decision for the panel is whether the matter declared is sufficiently serious to be considered through the fitness to practise process. When a Registration Panel refers a matter to the fitness to practise process, it is dealt with as an allegation under Article 22(6) of the Health Professions Order 2001. This provision allows the Council to investigate a matter where an allegation is not

made in the normal way. This power has been delegated to the Executive and legal advice is sought in each case.

When a self referral is received, further information is often sought by the Case Officer from the registrant, employer or police, in order to provide as much information as possible to the panel. Article 25(1) of the Health Professions Order 2001 (the power to demand information) cannot be used for the purposes of investigating self referral cases. However, once the case is referred to fitness to practise, these powers can be invoked.

Between June 2005 and December 2007, 239 self referrals were concluded. This number does not include cases that are on-going. The number and types of cases are shown in the table below.

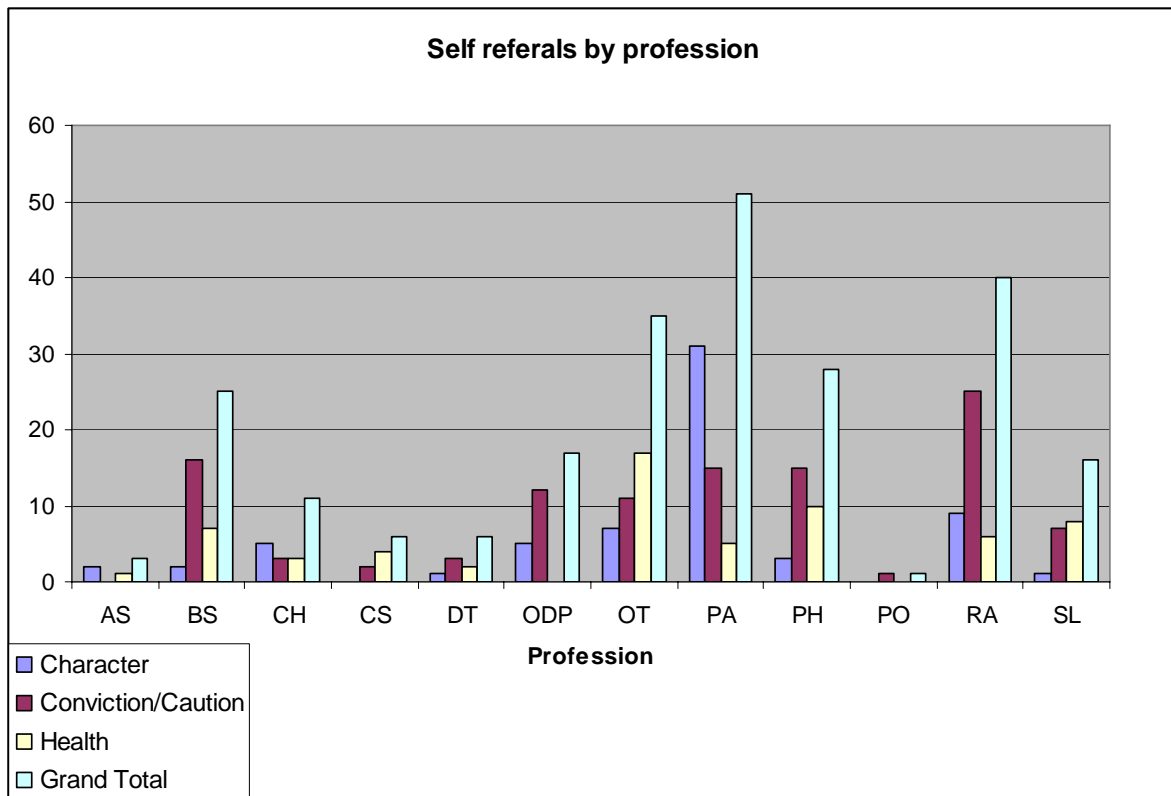
| | Health | Character | Conviction/caution | Totals |
|----------------------------------|---------------|------------------|---------------------------|---------------|
| Cases received | 63 | 66 | 110 | 239 |
| Cases considered by panel | 2 | 48 | 105 | 155 |
| Cases not referred to FTP | 1 | 13 | 81 | 95 |
| Cases referred to FTP | 1 | 35 | 24 | 60 |

Table 3 – Total self referrals made between June 2005 and December 2007

The average length of time taken for a self referral case to reach a Registration Panel from the time of receipt is 95 days. It is often the case that an employer is still investigating the matter when the self referral is made and the HPC will wait until the investigation is complete before proceeding with its case. The majority of self referrals that are received relate to recent incidents.

The graph below provides information about the number and type of self referrals made by profession. Paramedics are the single highest profession, with the majority of referrals being about character, and these are mostly employer investigations.

Occupational Therapists are the highest single profession to refer health matters to HPC. This compares with the declarations made on renewal by OT's where they declare the most issues and they are generally health matters.



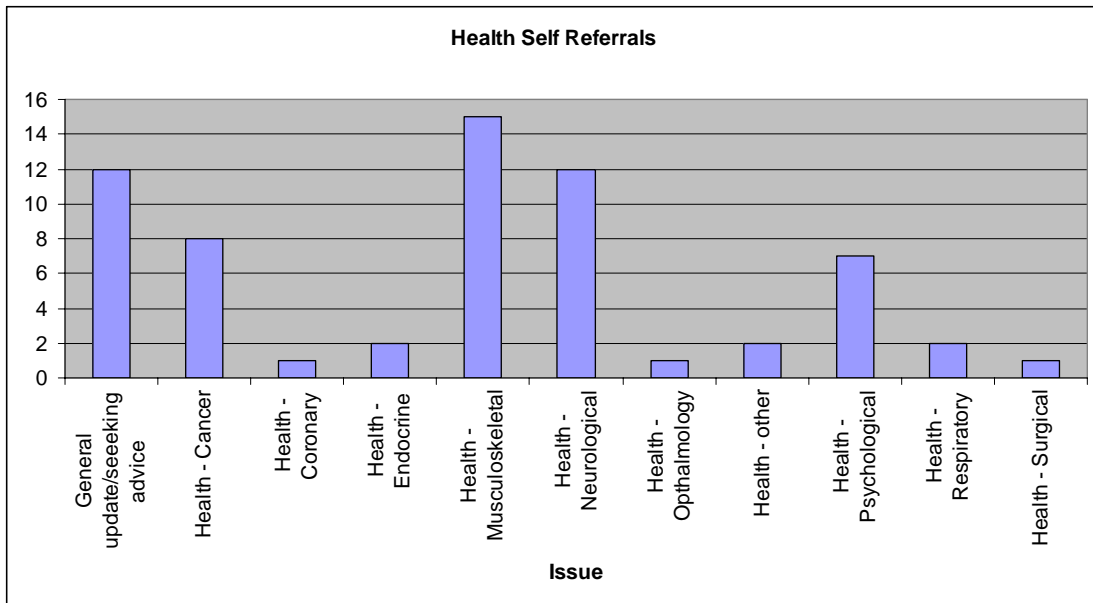
Graph 8 – Self referrals made by profession

4.1. Health

Of the cases received, 63 registrants were referring health issues and only 2 of these cases were considered by a Registration Panel. In cases where the registrant is advising HPC of a health issue, they are generally considered to have insight into their condition and are managing their fitness to practise. A letter is sent to the registrant to advise them that they have met their obligations under the standards of conduct, performance and ethics, and as such, the matter is not taken any further. Guidance in this area is published by HPC in the form of a brochure entitled “Managing fitness to practise: a guide for registrants and employers”.

The revised standards of conduct, performance and ethics, which will be published in July 2008, removes reference to informing HPC of health issues. It is likely, therefore, that there would be a reduction in the number of health self referrals that are made to HPC.

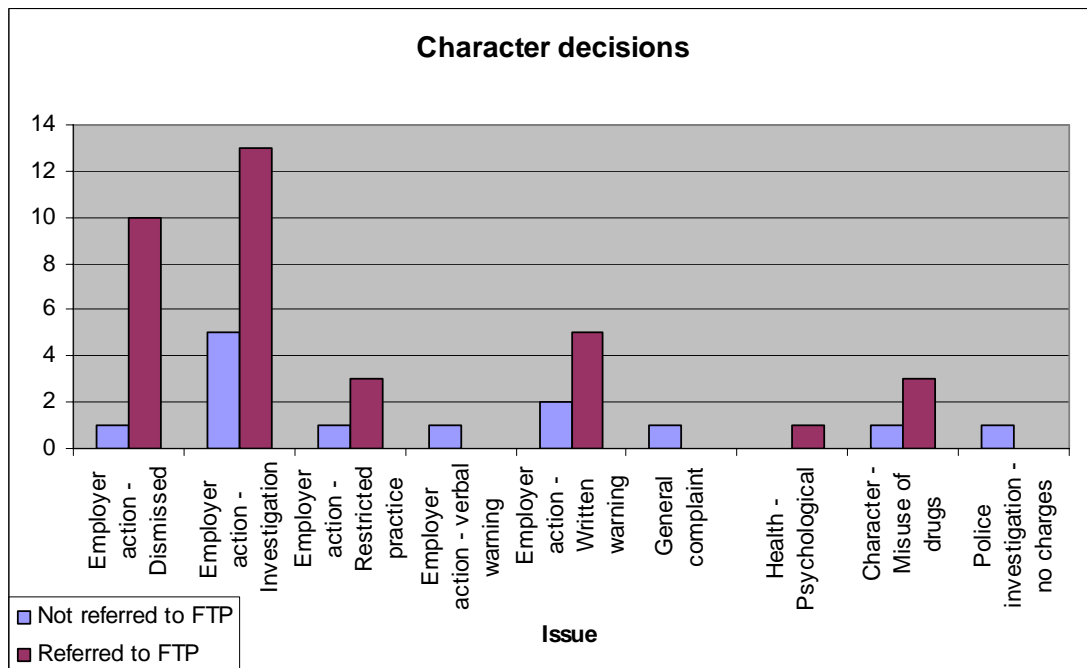
The nature and frequency of the issues referred can be seen in the graph below. Of the 2 cases that were considered by a Registration Panel, 1 was referred to the fitness to practise process. This related to an alcohol dependency problem.



Graph 9 – Health self referrals received

4.2. Character

48 of the 239 self referral cases relating to character were considered by a registration panel. Of those cases, 35 were referred to the fitness to practise process, 31 of which were related to an employer investigation. The graph below shows the types of cases that were considered and decisions reached by the panel.



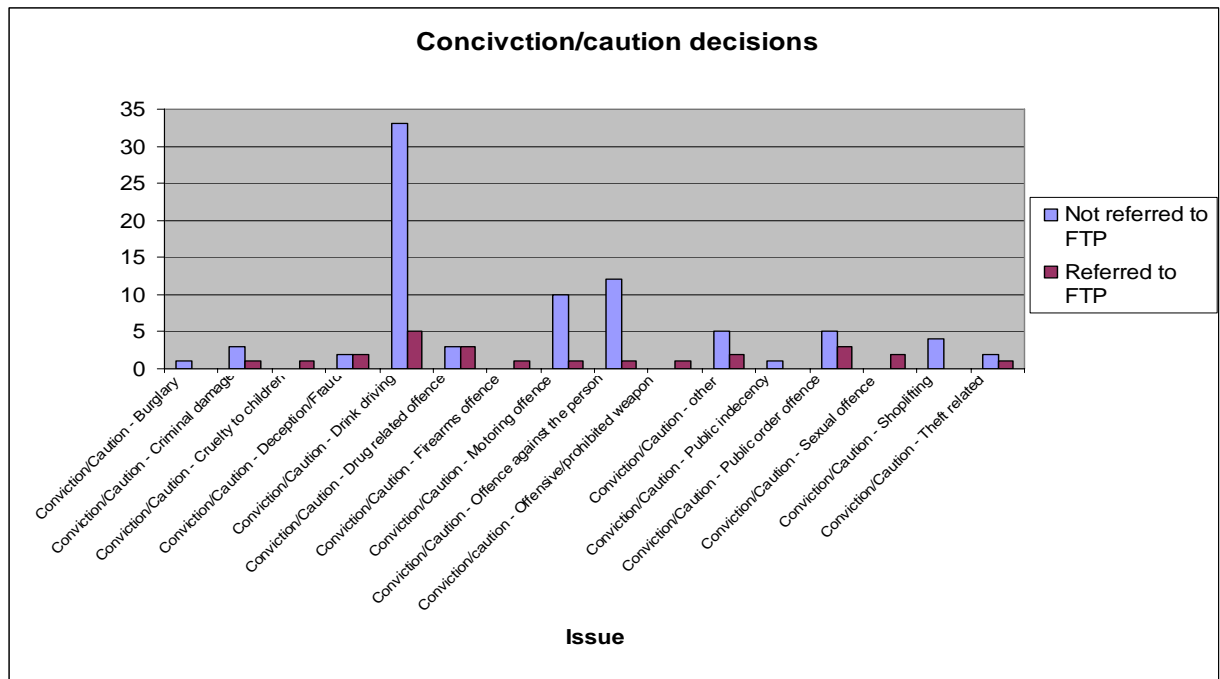
Graph 10 – Character self referral decisions

4.3. Convictions/cautions

Convictions and cautions are the most common issue to be declared by registrants, with 110 of the 239 referrals relating to a conviction. The most commonly declared conviction is driving under the influence of alcohol. It is rare for a Registration Panel to refer this issue to the fitness to practise process unless there are circumstances that raise particular concern, such as an indication that registrant may have been on call or on duty, or their blood alcohol level was particularly high.

The remaining types of conviction are relatively widely spread. Within the categories, the specifics of the offences vary, but they have been grouped to provide an overview.

73% of the convictions declared do not proceed to the fitness to practise process. The graph below shows the types of cases that are declared and what issues the panel has progressed to fitness to practise.



Graph 11 – Conviction/caution self referral decisions

5. Registration Appeals

A total of 16 appeals have been received against decisions made by Registration Panels under the health and character policy. Appeals can only be made against decisions regarding entry or renewal to the register, not against decisions in self referral cases to refer the matter to fitness to practise.

The total number of cases refused where registration or renewal of registration has been denied is 20 of a total of 508 cases considered by panels. This is only 3.9% of the cases that are considered. Of those 20 who were refused admission to the register, 16 applicants/registrants (80%) appealed the decision to the Council. 50% of the appeals considered were

allowed and the individuals were permitted to enter the register. 3 appellants withdrew their appeals prior to an Appeal Panel considering the case. 4 appeals were dismissed.

In most case where appeals were allowed, the appellant attended the hearing and gave oral evidence to the panel. This enables the panel to ask questions and often, information is provided which was not available to the Registration Panel when the original decision was made.

There do not appear to be any cases that were refused by the Registration Panel where the matter was not of a serious nature. Although most drink driving cases do not concern the panels, the case that was refused related to an incident where a significant ban and community service order was given by the court, which is out of the ordinary for such an offence. The applicant had an alcohol level of 101 microgrammes in 100 millilitres of breath, the legal limit being 35 microgrammes per 100 millilitres of breath. These factors were considered by the Registration Panel when making the decision not to allow registration.

The table below gives details of the cases where an appeal was received and brief details of the decisions made.

| Type of case | Category | Type of issue | Appeal decision | Comments |
|---------------------------|-----------------|--|------------------------|---|
| Admission/ readmission | Health | Alcoholism | Allowed | Appellant attended with colleagues and all gave oral evidence which satisfied the panel the concerns had been addressed |
| Admission/ readmission | Character | Misuse off drugs | Allowed | Appellant attended and gave oral evidence which satisfied the panel the concerns had been addressed |
| Admission/ readmission | Character | On POVA list | Allowed | No longer on POVA/POCA list, investigation concluded and found no wrong doing. |
| Admission/ readmission | Character | Other regulator – AODP. Removed form AODP for misuse of drugs in 2004 | Allowed | Appellant attended and gave oral evidence which satisfied the panel the concerns had been addressed |

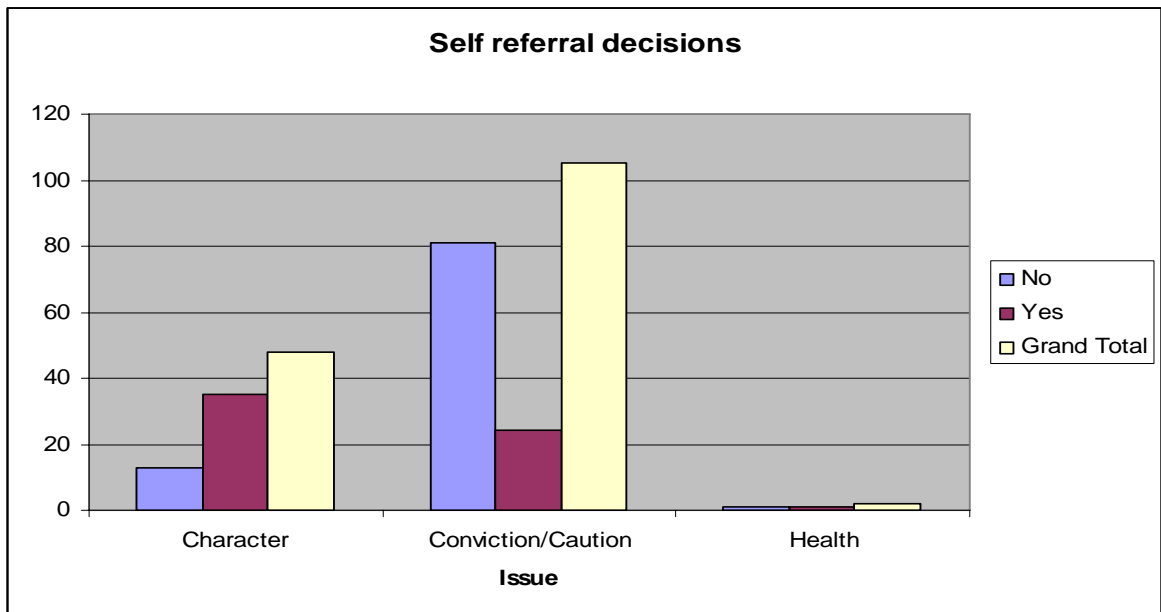
| | | | | |
|---------------------------|------------------------|---|---------------------|--|
| Admission/ readmission | Conviction/ Caution | Conviction/ Caution - Motoring offence. 8 convictions for various offences | Allowed | Panel felt as convictions were prior to training as a PH, registration should be allowed |
| Admission/ readmission | Conviction/ Caution | Conviction/ Caution - Drink driving. 3 year ban and community service order of 160 hours | Allowed | Panel felt it was an isolated incident, appellant recognised seriousness of offence, and had completed the requirements of community order |
| Admission/ readmission | Conviction/ Caution | Conviction/ Caution - Motoring offence Multiple offences – failure to provide a sample, drink driving and criminal damage | Allowed | Appellant attended and gave oral evidence which satisfied the panel the concerns had been addressed |
| Admission/ readmission | Conviction/ Caution | Conviction/Cauti on - Offence against the person. Assault *4 | Allowed | Appellant attended and gave oral evidence. Provided report of psychologist and had full support of employer |
| Admission/ readmission | Conviction/ Caution | Conviction/ Caution - Sexual offence. Downloading indecent images of children | Appeal withdrawn | |
| Renewal | Conviction/ Caution | Conviction/ Caution - Harassment | Appeal withdrawn | |
| Admission/ readmission | Character | Clinical competence | Appeal Withdrawn | |
| Admission/ readmission | Conviction/ Caution | Conviction/ Caution - | Dismissed | Appellant attended and gave oral |

| | | | | |
|---------------------------|------------------------|---|-----------|--|
| | | Deception/ Fraud Multiple convictions for fraud*11, theft*6 and drink driving*2 | | evidence, but did not satisfy the panel he had allayed the concerns of the Registration Panel |
| Admission/ readmission | Character | Employer action – dismissed Clinical incident | Dismissed | Appellant attended and gave oral evidence, but did not satisfy the panel he had allayed the concerns of the Registration Panel |
| Admission/ readmission | Character | Employer action – investigation Loaned money from patient on numerous occasions | Dismissed | Appellant attended and gave oral evidence, but did not satisfy the panel he had allayed the concerns of the Registration Panel |
| Admission/ readmission | Conviction/ Caution | Conviction/ Caution - Sexual offence Sex with 14 year old female | Dismissed | Serious offence and appellant did not have insight into the gravity of the offence |

Table 4 – Registration Appeals

6. Fitness to Practise Referrals

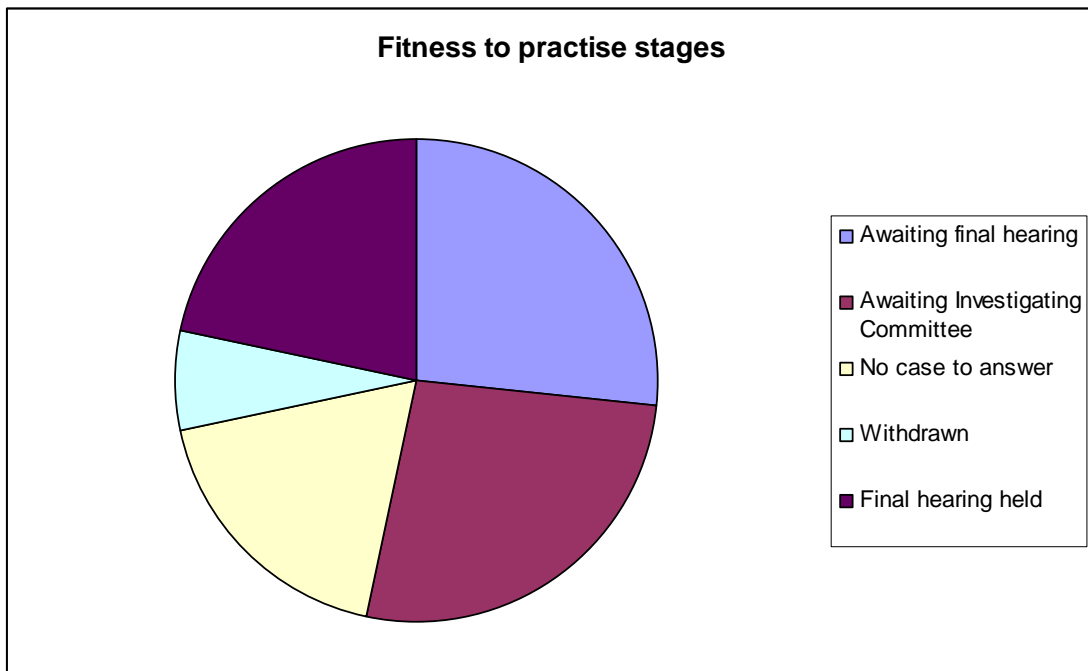
A total of 60 of the 155 self referral cases considered by a Registration panels were referred to the fitness to practise process. This is 39% of the cases were considered (this does not include self referrals that were not considered by Registration Panels). The graph below shows an overview of the types of cases that were referred. The single largest issues referred relate to character.



Graph 12 – Self referral decisions overview

When a matter is referred to fitness to practise by a Registration Panel, it is dealt with as an allegation under Article 22(6) of the Health Professions Order. Legal advice is sought to ensure that the facts disclose a matter which, if reported in accordance with the HPC Standard of Acceptance, would be pursued as an allegation. 4 cases were withdrawn having received legal advice as they were not cases which reasonably should have been referred.

Of the cases referred to FTP, 16 cases are currently at the investigation stage and have yet to be considered by an Investigating Panel. In total, 40 cases have been considered by an Investigating Panel. Of those, in 11 cases it was found that there is no case to answer, 16 are currently awaiting a final hearing and 13 have been considered at a final hearing.



Graph 13 – Number cases in fitness to practise stages

When a case is referred to the FTP process, Article 25(1) powers are available to Case Managers in order to investigate the matter further. In some instances there is no further information that could reasonably be obtained, however, further investigation is required in some cases.

6.1. No case to answer

There were 11 no case to answer decisions made by Investigating Panels in the following types of cases:

- Benefit fraud
- Drink driving
- Firearms offence
- Possessing an offensive weapon
- Public order offence
- Employer action – dismissal, final warning and investigation.

Although drink driving offences are not generally referred to the FTP process, in this instance it resulted in a 3 year driving ban which is out of the ordinary for such convictions.

Although a no case to answer decision is sometimes made by the Investigating Committee, it is right that the Registration Panel should refer matters that it considers to be of a serious nature. There may also be instances where further information would assist the Registration Panel but no powers are available to request the information. The proper action to take is to refer these matters to FTP for the appropriate investigations to be undertaken.

6.2. Final hearing decisions

Final FTP hearings have been held in 13 cases. The decisions are summarised in the table below. Only 2 cases were not proved by HPC, the reason being that the registrants had subsequently rectified the original areas of concern. In the other cases HPC has proved its case and a sanction has been imposed.

| Category | Type of Issue | Final hearing decision | Comments |
|------------------------|--|-------------------------------|---|
| Conviction/ Caution | Conviction/Caution - Drink driving 3yr driving ban and £255 fine, also referred assault conditional discharge | Caution | These cases were considered together as two separate self referrals were made |

| | | | |
|------------------------|---|--|--|
| Conviction/ Caution | Conviction/Caution - Offence against the person Also referred drink driving conviction | Caution | |
| Character | Employer action - Restricted practice Clinical incident | Caution | Re-training undertaken by registrant |
| Conviction/ Caution | Conviction/Caution - Drug related offence Possession of class A drugs | Caution | |
| Character | Character - Misuse of drugs Took and self administered Nubain | Conditions of practice, then no further action on review | |
| Character | Employer action – Investigation Clinical incident | Not well found | HPC only proved 1 of 4 particulars and insight and retraining did not render FTP impaired |
| Character | Employer action – Dismissed Record keeping | Not well found | There were failings, but a period of time has passed and current records were correctly maintained |
| Character | Character - Misuse of drugs Misuse of Etonox whilst on duty | Struck-off | |
| Character | Employer action – Dismissed Clinical incident | Suspended | |
| Character | Employer action – Investigation Clinical incident | Suspended | |
| Conviction/ Caution | Conviction/Caution - Sexual offence Possessing indecent images | Suspended | |

| | | | |
|------------------------|---|--|--|
| | of children | | |
| Health | General update/seeking advice Alcoholism | Conditions of practise, then suspended on review | |
| Conviction/ Caution | Conviction/Caution - Theft related Theft from his employer | Suspended | |

Table 5 – Fitness to practise cases

7. Resources

7.1. Employees

The fitness to practise department has 2 Case Officers that manage the health and character process, along side a case load of protection of title, registration appeal and fitness to practise cases. From 1 April 2008 there will be an additional Case Officer in post. When cases are referred to the FtP process these cases are managed by Case Managers.

7.2. Documentation

The majority of documentation required by panels when considering health and character cases is prepared in house. The average bundle size for an admission, readmission or renewal case is approximately 10 pages. Self referral bundles are generally larger as they will include the investigation undertaken by the employer as this accounts for the majority of the cases received in this area.

7.3. Panels

The cost of the panel is kept to a minimum as partners that are attending fitness to practise Investigating Panels are utilised to also sit as Registration Panels. Due to the small amount of paper work in most cases, HPC is also able to ask panels considering substantive fitness to practise cases to consider health and character issues where a hearing is likely to finish early. This ensures that best use is made of the resources available and also ensures that cases are considered in a timely manner.

8. Summary and conclusions

8.1. Length of time

The average length of time for a case to be considered by a panel is summarised below. This includes the 14 days notice of the panel date that the health and character policy requires we provide applicants/registrants.

| | Days to panel |
|----------------------|----------------------|
| Admission | 22 |
| Readmission | 19 |
| Renewal | 19 |
| Self referral | 95 |

Table 6 – Length of time to panel

The length of time for self referrals to reach a panel is significantly longer than for other types of cases. In these cases employer or police investigations are generally still in progress, or further information is required from the registrant or 3rd party.

Once a decision has been made, the application form (in admission and readmission cases where registration is allowed) is sent to the registration department within 1 day. This ensures that there is no delay in the final processing of the form.

The Registration Panels are able to come to a decision relatively quickly, particularly in admission and readmission cases as there is generally little paperwork.

The short amount of time it takes for a case to reach a panel indicates that the process is running effectively and efficiently, causing little delay to the registrations process.

8.2. Nature of the cases

In this report, the cases have been categorised to provide an overview of the types of cases that have been received. In some cases there is only one case of a particular type that has been received. For example, Conviction/caution – Motoring offence includes cases of driving without insurance, driving without tax, careless driving, failure to stop at the scene of an accident, failure to provide a specimen, vehicle licence misuse and dangerous driving among others. Within each category, the specifics of the cases varies in terms of when the incident occurred, what the circumstances were and what the outcome was.

8.3. Guidance

8.3.1. Applicants and Registrants

It may prove difficult to provide meaningful guidance to registrants and applicants on a wide number of issues, because of the varied nature of the cases as discussed above. One area where there is consistency in approach and a number of past cases to consider is drink driving convictions. Where the sentence is a 12 month driving ban, the cases are, in the vast majority of

instances, not of concern to the panel. Only 8 out of 144 cases have been referred or not permitted to enter the register. That is generally where there was a stiff sentence indicating a more serious offence, or there were multiple convictions.

A further area suitable for guidance is in relation to juvenile offences. No cases of this nature have been refused registration/referred to FTP. Any guidance would have to make very clear that any very serious offence would be considered by a Registration Panel, such as those offences leading to barring under the Vetting and Barring Scheme.

8.3.2. Education providers

The standards of education and training require that education providers perform criminal conviction and health checks on admission to an approved programme. The Professional Liaison Group considering the review of the standards of education and training has been discussing the role of education providers in teaching students about the standards of conduct, performance and ethics, and ensuring that they are met. It is expected that the Council will consult in the summer of 2008 on changes to the Standards of Education and Training.

A number of queries are received from education providers when prospective students declare a conviction or caution. Education providers are often anxious to avoid a situation in which a student successfully completes an approved programme, but is subsequently denied registration because of a health or character issue. The current advice offered by HPC is generally around the process that is currently in place, the types of issues the panel will take into account (such as the nature and number of the offences), when the incident occurred and information that can be provided by the applicant to demonstrate their good character. This is not currently documented.

8.3.3. Registration panels

There is currently no written guidance available to panel when they consider declarations. Panel members and panel chairs are provided with training when they are first appointed and at further review days.

At the beginning of each case the test for the panel to apply is clearly set out verbally by the Case Officer. It may, however, prove useful to produce written guidance similar to practice notes that are available for fitness to practise processes.

8.3.4. Recommendations

Firstly, the Executive recommends that consideration is given to producing guidance which applies to applicants, registrants and education providers in the form a single document. This would be similar to the guidance provided to all parties concerning disabled people and registration (A disabled person's guide to becoming a health professional).

This document should include:

- Information about the process adopted when a declaration is made
- How the declaration is considered
- What information the panel is likely to take into account
- Which issues HPC considers do not need to be considered by a panel: juvenile conviction and drink driving convictions with the exceptions outlined above (this is not intended to be an exhaustive list).

If guidance is produced, this would not negate the requirement for all convictions and cautions, (and other character issues) to be declared by applicants and registrants. It may mean that such cases do not need to be considered by a panel, but they would still need to be declared and considered by the Executive.

If the Committee agrees that guidance for applicants, registrants and education providers would be useful, the Executive would plan to bring back draft guidance at the Committee's September meeting. A consultation on the draft guidance would then take place.

The Executive would require delegated power from the Education and Training Committee in order to implement the guidance and administratively sign off the declarations. This could be delegated to either the Registrations Department or the Fitness to Practise Department.

Secondly, the Executive recommends that formal guidance is produced for Registration Panels which will be available to partners when they sit in this capacity.

If the Committee agrees recommendations, a further paper will be produced with draft guidance and legal advice will be sought.

8.4. Health Declarations

In September 2007, the Disability Rights Commission published the outcomes of an investigation into fitness standards in education, social work and nursing.

The investigation report commended the approach the Council has taken in making registration decisions, and said that HPC represented 'a model of good practice within the current constraints imposed by the health standards.'¹

However, the report concluded that regulatory requirements such as health references served no real purpose and acted as barrier to disabled people.

¹ Disability Rights Commission, *Maintaining Standards: Promoting Equality: Professional regulation within nursing, teaching and social work and disabled people's access to these professions* (September 2007), p. 23.

The report recommended that regulatory bodies should remove all requirements for good health or physical and mental fitness that are within their remits.

The Policy and Standards department will bring back a subsequent paper a future meeting of the Education and Training Committee, which will look at the Disability Rights Commission's recommendations in more detail, and in light of the analysis of the health and character process.

(Note: Employer action – investigation - These are sometimes cases where they are a service provider rather than an employee as such, or they may have resigned prior to dismissal.)

(Note: Not all case are considered by a panel as it may be an issue that was previously declared either under CPSM or HPC before June 2005, or it may not be something that HPC is concerned with e.g. civil proceedings such as bankruptcy or divorce settlements)

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