

CONFIRMED

The Health Professions Council

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MINUTES of the third meeting of the Joint Fitness to Practise Forum held **on Wednesday 17 September 2008** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Present

Mr K Ross (Chair)

Ms H Davis

Mr J Donaghy

Professor C Lloyd

Miss P Sabine

Miss M MacKellar

Dr N Callaghan

Mr R Clegg

Ms C Farrell

Mrs D Haggerty

Professor D Waller

Mr M Woolcock

Professor T Hazell

Mr O Altay

Mrs P Blackburn

Mr P Douglas

Dr S Khan

Mrs J Pearce

Mr N Willis

In attendance:

Mrs A Abodarham, Hearings Manager

Mr J Bracken, BDB Solicitors

Ms K Johnson, Director of Fitness to Practise

Mr S Rayner, Secretary to Committees

Mr M Seale, Chief Executive

Ms E Seall, Head of Case Management

Item 1.08/27 Apologies for absence

- 1.1 Apologies were received from Mrs M Clark-Glass, Ms S Drayton, Mr William Munro, Mr D Proctor and from Professor Annie Turner.

Item 2.08/28 Approval of agenda

- 2.1 The Forum approved the agenda.

Item 3.08/29 Minutes of the meeting of 23 April 2008

- 3.1 The minutes were signed, having been agreed as a true record of the last meeting by the Forum by correspondence.

Item 4.08/30 Matters arising from the meeting of 23 April 2008

- 4.1 The Forum received a paper to note from the Executive outlining progress against the action points agreed during the last meeting, and subsequent Practice Committees.
- 4.2 The Forum noted the action list, noting that the HPC monograph on the External Review of Complaints Literature was due to be published shortly.

Item 5.08/31 Chair's report

- 5.1 The Chair updated the Committee on the progress of the Continuing Fitness to Practise Professional Liaison Group, concluding that the final report was due to be presented to Council in October 2008.

Item 6.08/32 Director of Fitness to Practise report

- 6.1 The Forum received a paper from the Director of Fitness to Practise (FtP) which provided an outline of the work of the FtP Department over the previous three months. The Director also included a paper on the length of time taken for FtP cases to be concluded at final hearing.
- 6.2 The Forum agreed to discuss the two items individually.

Director's Report

- 6.3 In addition to outlining the information contained in the report, the Director of FtP informed the Forum that the presentation of a number of conduct and competence cases were now being dealt with in-house by case managers in their capacity of presenting officers
- 6.4 The Forum noted that the number of conduct and competence cases had risen consistently over the last 18 months. It was noted that there had been an increase in the number of allegations involving lack of competence. It was difficult at this stage to judge the effect that this was likely to have on the length of time it would take cases to conclude as those cases were still in the initial stages of the process of FtP panels. It was estimated that there would be 150 cases at final hearing stage carried over into the next financial year.
- 6.5 The Forum noted that there had been a significant increase in cases involving protection of title on the same period last year. It

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was noted that this was likely to be as a reflection of the increasing profile of HPC.

- 6.6 The Forum noted that through regular meetings with UNISON the FtP Department maintained a good working relationship with Trade Unions.

Length of time information

- 6.7 The Forum received a paper from the Executive on the length of time taken for FtP cases to be concluded at final hearing.
- 6.8 The Forum noted that there had been a gradual increase in the average length of time for cases since 2003. Some of the factors identified as affecting this increase included the outdated IT system?, the opportunity registrants had to ask for extra time to present their case, the increased use of legal representation and the increase in the number of witnesses at final hearings which presented a number of logistical difficulties
- 6.9 The Forum noted that the development of a new case management system was planned for 2009-10. Work was also planned to improve future control and prioritisation of cases . Internal service standards had also been introduced in August 2008, and were being closely monitored.
- 6.10 The Forum noted that it was no longer the case that cases involving specific professions were more likely to be longer than others.
- 6.11 The Forum noted that the new building had had a positive impact on case management as cases could be held concurrently in the building and the amount of hearings held at external venues had been reduced. It was now logistically much easier to organise hearings and this also had a cost implication.
- 6.12 The Forum noted that it was difficult to use length of time data collected to make a comparison between the regulators with regards to the length of time taken for cases to conclude due to the different systems of measurement. The Forum noted that the Council for Healthcare Regulatory Excellence had not reached a conclusion on whether a target for the average time it took for cases to reach final hearing was a useful tool for improving regulation.

Action: **Director of FtP** to provide data on length of times to final hearings to future FtP Committee meetings **(ongoing)**.

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Item 7.08/33 Commission for Healthcare Regulatory Excellence Review of the Nursing and Midwifery Council (and HPC performance review)

- 7.1 The Forum received a paper from the Executive introducing the Commission for Healthcare Regulatory Excellence (CHRE) Review of the Nursing and Midwifery Council (NMC). The Forum noted that at its meeting of 3 July 2008, Council requested that the Forum and Practice Committees, along with the rest of the HPC Committees, discuss the report and its implications for the work of HPC. The Forum and Committees were asked to agree a list of actions to be considered by Council for prioritisation.
- 7.2 The Forum also received the CHRE review of Health Regulators, including HPC, as context to inform discussion.
- 7.3 The Forum recommended that the Conduct and Competence, Health and Investigating Committees make the following recommendations for Council to consider for prioritisation:
- (a) That the Executive continue to take forward recommendations from within the CHRE report to develop:
- Systems for the assessment, appraisal and reappointment of HPC panel members;
 - Updating the register so that the conditions of practice are attached to individual registrants' entries; and
- (b) That the Executive continue to gather and evaluate data on timescales of cases, and that this data periodically be presented to FtP committees.
- (c) That the Executive continue to give strong emphasis to the collection and evaluation of data.

Item 8.08/34 External review of complaints literature

- 8.1 At the April 2008 meeting, the Forum received a presentation on research done on external complaints mechanisms. The Executive had been asked to return to the Forum with options for further work in this area. The Forum received a paper from the Executive setting out further potential areas of work, and was invited to consider whether any should be added to the work plan.
- 8.2 The Forum noted that there was anxiety amongst professionals about which stage they should inform HPC about allegations, or potential allegations, because of the implications for their work.

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- 8.3 The Forum noted that civil litigation was on the increase, and that it was not clear whether a case resulting in a less than optimum outcome for a patient was negligent in terms of the service provided by the regulator, if that case did not subsequently reach the regulator.
- 8.4 The Forum noted that it was important to provide detailed guidance for case managers. This guidance should also be made available to the public.
- 8.5 The Forum noted that it would be useful to have further information on the expectations of complainants
- 8.6 The Forum made the following recommendation to the Conduct and Competence, Health and Investigating Committees:
 - 8.6.1 That the Executive should be required to take decisions for further work as a result of the conclusions of the research into external complaints.

Item 9.08/35 Abusive, frivolous and vexatious complaints policy

- 9.1 The Forum received a paper from the Executive outlining a policy for dealing with abusive, frivolous and vexatious complaints to the FtP Department. The policy had been developed in response to the anticipated growth in the number of complaints anticipated with the taking on of new professions over the next few years.
- 9.2 The Forum was asked to discuss the policy and recommend it for approval to the Conduct and Competence, Health and Investigating Committees.
- 9.3 The Forum noted that the policy was appropriate to be cleared by the FtP Committees because it specifically related to the work of the FtP department and not necessarily to the wider organisation.
- 9.4 The Forum made the following recommendations to the Conduct and Competence, Health and Investigating Committees:
 - (a) That the Committees approve the policy
 - (b) That the Committees pass the following resolution:

“That the Director of Fitness to Practise be authorised to exercise the power of the Committee to take no further action in respect of any complaint which, in the reasonable opinion of the Director, is frivolous or vexatious. The exercise of this power shall be subject to any policy which has been approved by the Committee on the

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management of such complaints. In the Director's absence, this power may be exercised by a person nominated by the Director."

Item 10.08/36 Handling and purchasing of religious books

- 10.1 The Forum received a paper from the Executive outlining a set of practices HPC's adjudication function should follow in relation to procedures on the taking of oaths and affirmations in hearings.
- 10.2 The Forum recommended that the Conduct and Competence, Health and Investigating Committees approve the following:
- HPC to follow the practices of the Courts within its own hearings process.
 - HPC to have copies of the most common scriptures as they are most likely to be requested by registrants and witnesses attending FTP hearings.
 - Hearings Officers to become familiar with how to handle various scriptures, to ensure no offence is taken when administering the oath.
 - HPC to have copies of the various wordings of the different oaths to be administered according to their scriptures and how these oaths are to be administered.
 - Notices of hearings should include a statement requesting registrants or witnesses to indicate if they have any preference for a particular holy scripture and further advise them to bring a copy of this scripture to the hearing if their choice is not available.

Item 11.08/37 Cross examination in cases of a sexual nature

- 11.1 The Forum received a paper from the Executive setting out the procedure for cross examination in cases of a sexual nature.
- 11.2 The Forum was invited to recommend that the committees approve the practice note.
- 11.3 The Forum recommended that the Conduct and Competence, and Health Committees approve the practice note.

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Item 12.08/38 Work plan update

12.1 The Forum noted the work plan.

Item 13.08/39 Operating guidance

13.1 The Forum noted the operating guidance.

Item 14.08/40 Service standards

14.1 The Forum noted the service standards.

Item 15.08/41 Report on panel training

15.1 The Forum noted the report on panel training.

Item 16.08/42 Feedback from panel training

16.1 The Forum noted the feedback from panel training

Item 17.08/43 Dates of future committee meetings

17.1 The Forum noted the future dates of meetings.

17.2 The Forum noted that planning was underway to ensure that committee meetings for 2009-10 tied in more closely with reporting cycles.

Item 18.08/44 Any other business

18.1 The Forum had no further public business and adopted the resolution to hold the rest of the meeting in private session.

Chair:

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Date:

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