

**Health Professions Council  
Audit Committee -27 March 2007**

**INTERNAL AUDIT REPORT – FITNESS TO PRACTISE**

**Executive Summary and Recommendations**

**Introduction**

As part of the internal audit programme for 2006/7 PKF undertook a review of the Fitness to Practise function at HPC. The attached report which includes a management response was agreed with the Executive in February 2007.

**Decision**

The Committee is asked to discuss the report.

**Background information**

At its meeting on 28 June, the Committee approved the Internal Audit Needs Assessment and Internal Audit Plan for 2006-7. (See paper AUD 43/06).

**Resource implications**

None.

**Financial implications**

None.

**Appendices**

Fitness to Practise internal audit report.

**Date of paper**

14 March 2007.

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2007-03-14	a	ADT	PPR	Executive Summary Fitness to Practise internal audit Audit Committee 27 March 2007	Final DD: None	Public RD: None



Accountants &  
business advisers



## **Fitness to Practise**

**February 2007**

**Final - Confidential**

**Assurance Level: Satisfactory** – Satisfactory design of internal control that addresses the main risks but falls short of best practice and is operating as intended

**Staff Interviewed** – Kelly Johnson, Eve Seal and Charlotte Miller

**Audit Team** – Mark Wonnacott / Panyin Blankson

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# 1 Introduction

- 1.1 This review forms part of our 2006/2007 internal audit, which has been carried out in accordance with the programme which has been agreed with the Audit Committee in June 2006.
- 1.2 The aim of the audit was to carry out a review of the system and controls that are in place within the Fitness to Practise function. The review will cover the following areas:
- The risk management arrangement;
  - Performance management arrangements;
  - Budgetary control arrangements; and
  - Operational systems relating to each of the four types of cases:
    - Fitness to practise cases;
    - Registration appeals;
    - Prosecution cases; and
    - Health and character declarations
- 1.3 The work was carried out primarily by holding discussions with relevant staff, reviewing any available documentation and testing controls in place to determine their effectiveness. The audit fieldwork was completed in January 2007.
- 1.4 This report has been prepared as part of the internal audit of the Health Professions Council (HPC) under the terms of the contract for internal audit services. It has been prepared for the Health Professions Council and we neither accept nor assume any responsibility or duty of care to any third party in relation to it. The conclusions and recommendations are based on the results of audit work carried out and are reported in good faith. However, our methodology is dependent upon explanations by managers and sample testing and management should satisfy itself of the validity of any recommendations before acting upon them.

## 2 Executive Summary

2.1 This report summarises the work undertaken by PKF and our conclusions on the Fitness to Practise system in place at the HPC. The work was performed as part of our internal audit plan for 2006/07.

### Overall Conclusion

2.2 We have carried out the audit in accordance with the programme agreed with you. Based on the audit work carried out we have concluded that the level of control over the Fitness to Practise function is **Satisfactory**.

2.3 The role of the Health Professions Council (HPC) is to protect the health and well-being of people who use the service of the health professionals registered with them. Currently the HPC registers members of 13 professions. Only individuals who meet HPC standards for professional skills, behaviour and health are registered with the HPC.

2.4 The responsibility for the fitness to practise function has been entrusted to the Director of Fitness to Practise by the Health Professions Council. The scheme of delegation that is in place states that the Director of Fitness to Practise has been delegated the following matters:

- Appointing the members of any Council and Practise 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 Panel, members of a Panel shall be chosen by a random process;
- Appointing, by means of a random process, the legal assessor who is to be present at any registration appeal or fitness to practise and registration appeals proceedings;
- Conducting and defending all proceedings brought by or against the Council in relation to fitness to practise and registration appeals cases;
- Publishing the particulars of orders and decisions (and the reasons for them) made by Council or Practice Committee Panels;
- 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;
- Seeking an extension by a court under Article 31(8) of the 2002 Order, of an interim order made by a Practise Committee; and
- 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 Appeals proceedings.

- 2.5 We have not identified any fundamental concerns in any of the areas covered during this audit, although there remain some areas affected by minor risks whereby further steps should be taken to strengthen the controls in order to mitigate these risks.
- 2.6 We have identified an area where controls could be further strengthened and have made recommendations in this regard notably in respect of:
- A Departmental risk registers should be created and included within the departmental work plans to ensure that risk management is an integral part of business planning within the organisation.
- 2.7 Finally, we wish to thank all members of staff for their availability, co-operation and assistance during the course of our review.

**PKF (UK) LLP**  
**February 2007**

## 3 Detailed Findings

### Risk Management Arrangements

#### Our assessment

- 3.1 Our review of the risk management arrangements indicated that the risks for the Fitness to Practise function had been documented as part of the overall HPC risk register.

#### Our findings

- 3.2 The risks to the Fitness to Practise department has been established and included in the Councils risk register, which has been approved by HPC Council. Each identified risk has been assigned an owner, mitigating actions, a significance rating, and probability of occurrence. There is not an individual risk register for the Fitness to Practise function.
- 3.3 In order to comply with best practice it will be important that risk management continues to develop within the department and we have raised a recommendation in this regard.

#### Recommendation

**A Departmental risk registers should be created and included within the departmental work plans to ensure that risk management is an integral part of business planning within the organisation.**

### Performance Management Arrangements

#### Our assessment

- 3.4 Our review of the performance management arrangements indicated that the current controls in operation are Satisfactory and operating as intended.

#### Our findings

- 3.5 The fitness to practice annual report is produced by the Director of Fitness to Practise and the current Fitness to Practise annual report was approved by the Council at their meeting dated 11 May 2006, and identifies:

- Process;
- Allegations;
- Investigating committee;
- Incorrect entries;
- Interim orders;

- Public hearing;
  - Sanctions imposed; and
  - Conclusion from the Director of Fitness to Practise.
- 3.6 The Annual Report also gives the statistics on the number of each of these items and this shows the trend over the last four years. We confirmed that the Director of Fitness to Practise reports to the Fitness to Practise Committee's on the department's performance. The department has an annual work plan which is monitored on a regular basis. At the 3 Fitness to Practise Committee Meetings held in September the Fitness to Practise work plan was reviewed and process report was presented by the Director of Fitness to Practise. The 2006 Annual Report shows that the number of cases that the department have been involved with continues to increase each year, at the same time the average cost of each case is falling.
- 3.7 It was further established that the Fitness to Practise Manager reviews the weekly statistics report which details fitness to practise cases, fixings, POT, Health & Character and registration appeals.
- 3.8 The Director of Fitness to Practise is responsible for putting together the department's annual budget. The Finance Department reviews the annual budget and it is then approved by the Finance & Resources Committee. Following this approval a final approved of the budget is made by the HPC Council. At the end of accounting period 8 (November) the expenditure to date was £1.808 million against a budget of £1.725 million, an overspend of £83,000. There is regular reporting against the budget on a monthly basis.
- 3.9 The Finance department produces monthly management accounts which are reviewed by all budget holders. The Management Accountant conducts monthly meetings with the Budget Holders to discuss the budgets and obtain reasons for any variances that may have arisen. The FTP committee is also involved in the monitoring of the performance of the department

## **Fitness to Practice Cases**

### **Our assessment**

- 3.10 Our review of the operational system indicated that the current controls in operation are Sound and operating as intended.

### **Our findings**

- 3.11 A Fitness to Practise Manual for Case Managers and Fitness to Practise Investigation Manual have been established and maintained on the organisations intranet. Both manuals were ascertained and we confirmed that the Fitness to Practise Manual for Case Managers



details the processes for maintaining a case file, what needs to be checked, allegations and the Article 22(6) process. The fitness to practice investigation manual identifies :

- Human rights;
- Investigating process;
- Witness statements;
- Investigative report writing; and
- Disclosure in criminal cases.

3.12 We further confirmed that there is a process flowchart for allegations, investigating panel, appeals, health and character declaration.

3.13 The registrants have an obligation to provide the HPC with any important information about their conduct, their competence or their health. Complaints are also received from other registrants, other health professions, patients and their families, employers, the police and HPC. The fitness to practise team only considers complaints about fitness to practice. The types of complaints considered are whether a registrant's fitness to practice is impaired by their misconduct, convictions, lack of competence, physical & mental health, and by another regulator.

3.14 The complaints are received by the HPC and date stamped. A letter is then sent to complainants confirming receipt of the message. The registrant is then informed and provided with the opportunity to respond to the complaint within 28 days. The registrant and complainant are sent a letter informing them of the day the Investigating Committee will consider the case. The Investigation Committee will make the decide as to whether there is a case to answer. If there is a case to answer all parties are informed and HPC solicitors are instructed.

3.15 The Investigation Committee will refer the case to either:

- Conduct & competence committee for cases about misconduct, lack of competence and convictions;
- Health committee for cases where health of registrant is affecting their ability to practise; or
- Another panel of the Investigating committee for cases where an entry to the register may have been obtained fraudulently or incorrectly.

3.16 The relevant witness statements are then gathered. The final hearing is then heard and a sanction imposed if it is deemed appropriate.

3.17 The testing undertaken on a sample of fitness to practise cases which are closed and it revealed that the documented processes had been complied with fully.

## Registration Appeals Cases

### Our assessment

- 3.18 Our review of the operational system indicated that the current controls in operation are Sound and operating as intended.

### Our findings

- 3.19 Making a registration appeal Policy has been established and maintained on the Council's intranet. A registration appeals rules order of Council was made on 13 July 2003 and come into force on 9 July 2003. Registration appeals procedures are maintained in the G-drive accessible to all Fitness to practise department staff.
- 3.20 Making a Registration appeal policy was obtained and identifies the following aspects :
- Who can appeal;
  - How should an appeal be made;
  - Time frames; and
  - Appeal panel and hearing.
- 3.21 The statutory instrument 2003 no 1579 registration appeals was also obtained and reviewed. The rules provide sufficient information on the appeals process.
- 3.22 Fitness to practice involves competence in registrants chosen profession; they have the appropriate health and character and the necessary skills and knowledge to do their jobs safely and effectively.
- 3.23 Once the applicants request to be placed on the register is declined the applicant is informed of the decision by letter and the letter informs the applicant of their right to appeal within 28 days. The applicant the informs the HPC if they want to appeal against the decision. The HPC then sends a letter to the applicant confirming receipt of their appeal decision and informs them on the appeals process.
- 3.24 The grounds for appeal are requested from the individual. A letter is then sent to the applicant informing them of the date and time of the appeal hearing. The appeals panel reviews the case and makes a decision. The case worker informs the individual of the decision by mail. The individual will further be informed of their right to appeal to a county court or in Scotland, a sheriff under article 37(10) of the Order.
- 3.25 The testing undertaken on a sample of randomly selected registration appeal cases and it revealed that the documented processes had been complied with fully.

## Prosecution Cases

### Our assessment

- 3.26 Our review of the operational system indicated that the current controls in operation are Sound and operating as intended.

### Our findings

- 3.27 For each profession there is one or more protected titles which can only be used by people registered with HPC. It is a criminal offence for an individual to:
- Falsely represent that they are on the HPC register;
  - Misuse a title protected the 2001 Order; or
  - Falsely represent possession of a qualification.
- 3.28 The Director of Fitness to Practice presented a report to the Council at their meeting dated 2<sup>nd</sup> March 2005, requesting the Council to approve the policy on protection of title. The policy on protection of title was obtained and reviewed. The policy details the prosecution process, other offences, decision to prosecute and evidential test.
- 3.29 Complaints can be received from a number of parties:
- other registrants;
  - other health professions;
  - patients and their families;
  - employers; and
  - the police.
- 3.30 Once a complaint has been received a Case Officer is assigned to the case. A letter is sent to the complainant by the HPC informing the complainant that the case will be investigated and further documentation may be required. A letter is then sent to the individual (suspected offender) informing them of the investigation and requests the individuals to confirm their occupation and explain any alleged offence within 14 days. The individual responds to the HPC and all correspondence is retained. The HPC sends a letter to the individual confirming receipt of their response. A decision is made and action to be taken is documented.
- 3.31 The testing undertaken on a sample of randomly selected prosecution cases and it revealed that the documented processes had been complied with fully.

## Health and Character Declarations

### Our assessment

- 3.32 Our review of the operational system indicated that the current controls in operation are Sound and operating as intended.

### Our findings

- 3.33 The procedures on the health and character declarations have been documented and maintained on the organisations intranet, accessible to all HPC staff. The health and character declarations policy as approved by the Education & Training Committee was obtained and reviewed. The health and character declarations policy provided the following with regards to information:

- Standards of Conduct, Performance and Ethics
- Registration panel;
- Issues for consideration; and
- Health.

- 3.34 The registrants have an obligation to provide HPC with any important information about conduct, competence or health. The registrant may declare a health and character issue on renewal, on readmission/ admission and by self referral. A letter informing the registrant that the registration panel will meet to consider their application is sent. Any further supporting documents may be requested from the registrant by the HPC. A Registration Panel Report is produced detailing the decision and retained on file. A letter is the sent to the applicant/ registrant informing them of the decision.
- 3.35 The testing undertaken on a sample of randomly selected health and character cases and it revealed that the documented processes had been complied with fully.

## 4 Action Plan

Ref.	Findings	Recommendations	Priority	Management Response <i>Responsible Officer</i>	Due Date
R1	There is not an individual risk register for the Fitness to Practice function. In order to comply with best practice it will be important that risk management continues to develop within the department.	<b>Departmental risks should be included within the departmental work plans to ensure that risk management is an integral part of business planning within the organisation</b>	Medium	Department risks will be incorporated in the respective work plans for the financial year starting April 2007.	April 2007

## 5 Assurance Definitions

Assurance Level	Definition
<b>Sound</b>	Satisfactory design of internal control that addresses risk and meets best practice and is operating as intended.
<b>Satisfactory</b>	Satisfactory design of internal control that addresses the main risks but falls short of best practice and is operating as intended.
<b>Satisfactory in Most Respects</b>	Generally satisfactory design of internal control that addresses the main risks and is operating as intended but either has control weaknesses or is not operating fully in some significant respect.
<b>Satisfactory Except For.....</b>	Satisfactory design of internal control that addresses the main risks and is operating as intended in most respects but with a major failure in design or operation in the specified area.
<b>Inadequate</b>	Major flaws in design of internal control or significant non operation of controls that leaves significant exposure to risk.