

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the twentieth meeting of the Conduct and Competence Committee held at **11:00 am on Wednesday 22 November 2006** at the Health Professions Council, Park House, 184 Kennington Park Road, London, SE11 4BU.

PRESENT: Mr K Ross (Chairman)
 Ms H Davis
 Professor C Lloyd
 Mr P McFadden
 Ms H Patey
 Mr D Proctor
 Miss P Sabine

IN ATTENDANCE:

Ms V Adams, Hearings Officer
 Mr C Bendall, Secretary to Committees
 Mr M Guthrie, Policy Officer
 Miss K Johnson, Director, Fitness to Practise
 Mr S Mars, Policy Officer
 Mr G Ross-Sampson, Director of Operations

Item 1.06/17 APOLOGIES FOR ABSENCE

- 1.1 Apologies for absence were received from Mrs M Clark-Glass and Dr G Sharma.
- 1.2 The Chairman welcomed Ms Adams to her first meeting of the Committee.
- 1.3 The Committee noted that Mr Bendall would act as Secretary for this meeting in Ms Butcher's place.

Item 2.06/18 APPROVAL OF AGENDA

- 2.1 The Committee approved the agenda.

**Item 3.06/19 MINUTES OF THE CONDUCT AND COMPETENCE COMMITTEE
COMMITTEE MEETING HELD ON TUESDAY 19 SEPTEMBER 2006**

- 3.1 It was agreed that the minutes of the nineteenth meeting of the Conduct and Competence Committee should be confirmed as a true record and signed by the Chairman.

Item 4.06/20 MATTERS ARISING

- 4.1 The Committee received a paper to note from the Executive.
- 4.2 The Committee noted the actions list as agreed at the last meeting and that most of the action points had been addressed, except for action point 7 (to provide a list of potential reports available from the fitness to practise database). The Committee noted that progress on completion of the database meant that this would not be available until the next meeting.

Item 5.06/21 CHAIRMAN'S REPORT

- 5.1 The Committee received a verbal report from the Chairman.
- 5.2 The Chairman reported that he had attended the following meetings:
- 5.2.1 A meeting on 9 October 2006 with officers at the Scottish Executive to discuss the regulatory agenda, including the Foster and Donaldson Reviews and the responsibilities of the Westminster and Scottish Parliaments.
- 5.2.2 A consultation event about the Foster and Donaldson Reviews held in Edinburgh on 17 October 2006. The event had also been attended by the President and Chief Executive and Registrar and representatives of the other healthcare regulators. The HPC's representatives had explained the Council's position on the reviews, in particular its concerns about revalidation.
- 5.3 The Committee noted that the Partners Conference was due to be held in Glasgow on 26-27 November 2006 and would be attended by more than 200 Partners. The Committee noted that many attendees were due to attend the fitness to practise "break-out" session.

Item 6.06/22 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 6.1 The Committee received a report on the work of the Fitness to Practise department.
- 6.2 The Committee noted that, following security issues at a recent hearing, the department would ensure that a risk assessment was conducted for future hearings. The Committee noted that the Metropolitan Police had provided advice on security.

- 6.3 The Committee noted that three allegations had been not well-founded and that, as some of these hearings had been held outside Park House, this had a financial implication. The Committee noted that, to date, registrants had tended not to give permission for the HPC to publish the outcome of cases which were not well-founded. The Committee asked that the Executive should consider asking panel chairs to seek permission from registrants at the end of the hearing.
- 6.4 The Committee noted that the current case to answer rate was 70%, that the number of review hearings required was increasing and that additional resources would be needed if the HPC was to avoid a backlog of cases building up. The department had fixed hearing dates into spring 2007.
- 6.5 The Committee noted that the Executive was reviewing the policy on publication of allegations on the HPC website and it was expected that a paper would be presented to the Council in 2007.
- 6.6 The Committee noted that the report included a summary of a review day for legal assessors and panel chairs held on 11 October 2006. The meeting had included a presentation from the Council for Healthcare Regulatory Excellence on its functions and points from recent case law. The meeting had also discussed the need for reasoning and more detail in the determination of cases.
- 6.7 The Committee noted the report included a report on cases heard by Conduct and Competence Panels, which provided details of the type of complainant (e.g. public, employer, police), type of allegation, number of days of hearing and outcome. Several notices of decision and orders, which had been omitted from the report, were tabled.
- 6.8 The Committee noted that, regardless of the offence for which a registrant was convicted, the HPC still needed to hold a hearing. Conviction did not automatically mean that action was taken against a registrant.
- 6.9 The Committee noted that the Executive was aware of the need for panels to take appropriate action if a registrant continued to breach conditions of practice.
- 6.10 The Committee noted that the average hearing now lasted one and a half days and that the length of hearings was increasing, due to more witnesses being called and the increase in representation of registrants.
- 6.11 The Committee agreed that at each meeting it should receive a report providing details of all cases heard by Conduct and Competence Panels, so that the Committee could try to identify any trends. The Committee agreed that the report should be backdated to include all hearings from April 2006.

Action: KJ (Ongoing)

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2006-11-22	a	C&C	MIN	Conduct and Competence Committee public minutes 22 November 2006	Final DD: None	Public RD: None

Item 7.06/23 FITNESS TO PRACTISE WORK PLAN AND PROCESS REPORT

- 7.1 The Committee received a verbal report from the Director of Fitness to Practise.
- 7.2 The Committee noted that it had discussed the draft work plan at its last meeting and that the work plan would be submitted to the Committee at its meeting on 30 January 2007, once the outcome of the Department's budget bid was known.

Action: KJ (by 30 January 2007)

- 7.3 The Committee noted that work in the Department for the rest of the 2006-7 financial year included:
- preparation of a paper for Council on the standard of acceptance for an allegation;
 - preparation for an internal audit in January 2007;
 - preparation of the annual Fitness to Practise report;
 - review of witness support information;
 - work on the Equality and Diversity project;
 - development of the fitness to practise case database;
 - training for members of the Department;
 - forecasting numbers of cases. It was forecast that there would be 470 allegations in the next financial year, based on the rate of increase in previous years; and
 - involvement in the tendering process for legal services.

Item 8.06/24 REVIEW OF THE STANDARDS OF CONDUCT, PERFORMANCE AND ETHICS: REPORTS FROM THE DISCUSSION MEETINGS AND COUNCIL AWAY DAY 2006

- 8.1 The Committee received a paper for discussion/approval from the Executive.
- 8.2 The Committee noted that meetings had been held with representatives from patient groups and with professional bodies and unions to discuss the review and invite feedback on the standards. The standards had also been discussed at the council away day. The Committee noted that the paper reported on the meetings and away day and summarised responses to the call for ideas.
- 8.3 The Committee noted the paper.

Item 9.06/25 DRAFT STANDARDS

- 9.1 The Committee received a paper for discussion/approval from the Executive.

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2006-11-22	a	C&C	MIN	Conduct and Competence Committee public minutes 22 November 2006	Final DD: None	Public RD: None

- 9.2 The Committee noted that the paper included draft amendments to the standards of conduct, performance and ethics and the introduction to the standards, incorporating where possible comments and suggestions received during the review. During the discussion, Mr Guthrie verbally reported comments by the Health Committee and the Investigating Committee on the standards.
- 9.3 The Committee agreed that the structure of the standards should remain the same; that a glossary should be added; and references to "patients, clients and users" should be replaced by the term "service users".
- 9.4 The Committee noted that the draft standards would be checked by the Plain English Campaign following the consultation.
- 9.5 The Committee noted that the summary of standards had been moved to the front of the document and the role of the standards for prospective registrants and registrants had been made clearer. In addition, information about fitness to practice processes had been abridged and moved to the end of the standards.
- 9.6 The Committee noted that the standards would also refer readers to the standards of proficiency.
- 9.7 The Committee noted that it was proposed that standard 1 should be amended to include information about child protection. The Committee agreed that the standard should refer to all vulnerable people, including children and vulnerable adults.
- 9.8 The Committee agreed that it was not necessary for the standards to require registrants to have their own complaints procedure, as many registrants did not work in private practice. The Committee noted that the HPC could produce separate guidance on complaints procedures.
- 9.9 The Committee agreed that standard 2 should not be amended. The Committee noted that separate guidance on confidentiality would be produced.
- 9.10 The Committee agreed that standard 3 should be amended so that the list of offences referred to "criminal offences which you received a prison sentence for" rather than "serious criminal offences".
- 9.11 The Committee agreed that it was not necessary for standard 3 to mention drink-driving offences. Whilst these were serious offences and panels would consider each case on its merits, drink driving convictions were not usually referred for a hearing unless there were aggravating factors.
- 9.12 The Committee agreed that it was not necessary for standard 3 to mention "using drugs" as a broad area. Whilst panels could consider offences relating to recreational drug use outside of a working context and would take a serious view of such use, this

type of offence would not normally lead to removal from the register or denial of registration.

- 9.13 The Committee noted that the list of offences in standard 3 was not exclusive and that the HPC would always examine any conviction or cautions involving registrants.
- 9.14 The Committee noted that the HPC website would be revised to enable stakeholders to search for hearings by type of offence and by type of sanction.
- 9.15 The Committee noted that standard 4 had been amended to remove the requirement that registrants must provide important information about their health to the HPC. The Committee noted that the HPC would take action if it appeared that a registrant's health was impairing their fitness to practise, but it was difficult in absolute terms to specify a threshold level over which the HPC needed to be informed. The Committee noted that registrants often reported changes to their health and practice.
- 9.16 The Committee noted that the Health Committee and the Investigating Committee had both felt that standard 4's requirements about health were duplicated by standards 12 and 14. The Committee agreed to amend standard 4 as discussed.
- 9.17 The Committee noted that standard 5 had been amended to be consistent with the consultation draft of the introduction to the standards of proficiency and that the standard required registrants to practise safely and effectively within their scope of practice.
- 9.18 The Committee noted that standard 6 had been amended to include further detail about referrals and duty of care.
- 9.19 The Committee agreed that the first paragraph of standard 6 should refer to "relevant education, training and experience", to reflect the HPC's standards of Continuing Professional Development.
- 9.20 The Committee agreed that the second paragraph of standard 6 should be amended to clarify that referrals should be made to an appropriate practitioner.
- 9.21 The Committee agreed that no changes were needed to standard 7, as standard 1 required registrants to act in the best interest of service users, including reporting concerns.
- 9.22 The Committee agreed that standard 8 should be amended to explain that registrants were responsible for the appropriateness of the decision to delegate, but were not directly responsible for the outcome. The amended standard required that registrants should make sure that people had the knowledge, skills and experience to carry out a task safely and effectively and to give adequate and appropriate supervision.

- 9.23 The Committee agreed that no changes were needed to standard 9 as it adequately covered issues around obtaining informed consent.
- 9.24 The Committee agreed that standard 10 should require registrants to ensure that records completed by students were complete and appropriate. The Committee agreed to extend the sentiment expressed for electronic records to all types of record keeping including paper.
- 9.25 The Committee noted that it had been suggested that standard 11 should be amended to require registrants to effectively manage all types of risk. The Committee agreed that this was unnecessary, as standard 1 required registrants to act in the best interests of service users.
- 9.26 The Committee agreed that standard 12 should be amended to remove the reference to the action which the HPC might take if a registrant's health was harming their fitness to practise, to emphasise registrants' positive duty to change their practice if necessary.
- 9.27 The Committee agreed that standard 13 should be removed as it did not substantially add to the standards. The Committee noted that it was not clear what the phrase "special responsibilities" meant and that the standard included information about the HPC's approach and role, which was unnecessary in the standards.
- 9.28 The Committee agreed that standard 14 should be amended to require that registrants should justify the trust which others placed in them, by acting with integrity and honesty at all times.
- 9.29 The Committee agreed that standard 15 should be amended to require that any advertising by registrants was accurate. The Committee agreed that the standard should not be broadened to refer to issues around conflicts of interest, as enquiries to the HPC about conflicts of interest could be dealt with by reference to standard 1 and the existing standard 15.
- 9.30 The Committee asked that the Executive should consider amending standard 16 to require that registrants should not get involved in any behaviour or activity which was likely to damage public confidence in the registrant as an individual, as well as the services they provided and their profession.
- 9.31 The Committee noted that the amendments agreed would be incorporated into the draft standards. The Committee noted that a further draft, incorporating the fitness to practise committees' comments, would be brought back to the fitness to practise committees at their meetings in January 2007.

Action: MG (by 30 January 2007)

Item 10.06/26 STANDARD WORKPLAN

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2006-11-22	a	C&C	MIN	Conduct and Competence Committee public minutes 22 November 2006	Final DD: None	Public RD: None

- 10.1 The Committee received a paper for discussion from the Executive.
- 10.2 The Committee noted that the paper set out the aims and direction of the Council's work on standards. In particular, it set out a rationale for reviewing the standards, producing guidance and for ongoing and periodic review of the standards. The Committee noted that the workplan was being considered by the Health Committee, Investigating Committee and Conduct and Competence Committee. It would then be considered by the Education and Training Committee, who would be asked to recommend its approval by Council.
- 10.3 The Committee approved the workplan as set out in the paper.

Action: MG (Ongoing)

Item 11.06/27 REVIEW CASES

- 11.1 The Committee received a paper for discussion from the Executive.
- 11.2 The Committee noted that, at its last meeting, it had requested a report on cases where a review hearing had been held.
- 11.3 The Committee noted that whilst the policy and guidance on sanctions was intended to create a rehabilitative process, panels should consider more severe sanctions where appropriate.
- 11.4 The Committee noted that, if panels agreed to continue conditions of practice or suspensions from the register, this had resource and financial implications for the HPC.
- 11.5 The Committee agreed that at each meeting it should receive a report on review hearings.

Action: KJ (Ongoing)

Item 12.06/28 HIGH COURT DECISION IN THE MATTER OF MOHAMMED KHOKAR

- 12.1 The Committee received a paper from the Executive for discussion.
- 12.2 The Committee noted that in 2005 a panel had found that Dr Mohammed Khokar's fitness to practise was impaired by reason of his lack of competence whilst in the employment of the North West Thames Regional Genetics Service. The panel had imposed a suspension order for one year.

- 12.3 The Committee noted that Dr Khokar had appealed the decision to the High Court and the case was considered by the Administrative Court on 11-13 September 2006. The case had originally been listed for hearing on 20 June 2006 but Dr Khokar had requested an adjournment and this had been granted. The judgement had been handed down on 20 October 2006 and the appeal had been dismissed.
- 12.4 The Committee noted that the HPC would seek to recover the costs of the appeal, which were approximately £54,000. The Committee noted that there should be a balance between recovery of costs and an unduly punitive effect on the registrant. The Committee noted that the Executive would consider how to publicise the HPC's position on recovery of costs.

Item 13.06/29 DATES OF THE CONDUCT AND COMPETENCE COMMITTEE MEETINGS

- 13.1 The Committee received a paper from the Executive to note.
- 13.2 The Committee noted the meeting dates in 2007-8 which had been agreed with the Chairman as follows: 19 September 2007, 21 November 2007, 19 February 2008 and 23 April 2008.
- 13.3 The Committee noted that the terms of office for all committee members were due to expire in July 2007 and the Council would be asked to allocate members to committees.

Item 14.06/30 ANY OTHER BUSINESS

- 14.1 The Committee noted that the European Union had issued a code of conduct for use across all professions and asked the Executive to investigate and report on the implications for the HPC.

Action: MG (by 30 January 2007)

Item 15.06/31 DATE & TIME OF NEXT MEETING

- 15.1 The next meeting of the Committee would be held at 11:00am on Tuesday 30 January 2007.
- 15.2 Subsequent meetings would be held at 11.00 a.m. on
- Monday 23 April 2007
 Wednesday 19 September 2007
 Wednesday 21 November 2007
 Tuesday 19 February 2008
 Wednesday 23 April 2008