

MINUTES of the meeting of the Conduct and Competence Implementation Working Party of the Health Professions Council held at Park House, 184 Kennington Park Road, London SE11 4BU on 28th November 2002 at 11:00

PRESENT

Dr. A.Yule, Chairman

Dr. G Beastall,

Ms. J. Manning,

Prof. N Brook,

Mr. K Ross,

Dr. R. Jones

In Attendance: Mr T.C. Berrie, Secretary to the Working Party

Mr. G. Ross-Sampson

Mr. S. Hill, Consultant, Newchurch

02/37 Apologies for Absence

An apology was received from Mr. R Clegg, Miss H. Davis, Ms. P. Sabine, Mrs. B Stuart, Mr. G Sutehall

02/38 Minutes

It was **AGREED** that the Minutes of the meeting held on 13th June 2002 be confirmed as a correct record and signed by the Chairman.

02/39 The Consultation Process: Responses

Mr. Hill introduced the document he had produced which summarized the responses received and advised that those which were covered by the work of the Working Party related more to detailed process rather than the two formal documents it had produced. It was **AGREED** that these comments be examined during the production of the various process documents, explanatory leaflets, commentaries etc., but that the draft Rules and draft Statement of Good Character, Conduct and Health be not amended, except in relation to Minute 02/40.3 below, and the Council be **RECOMMENDED** to approve the Statement.

02/40 Production of Leaflets, Manuals, Guidance Notes, Job Descriptions and Processes

1. Some Notes to Assist the Working Party

Mr. Berrie had included some notes to assist the Working Party in its consideration of this item.

2. Initial Draft of Document Setting out Procedures

Mr. Berrie had included with the agenda the above, which had been devised by combining the requirements of the HP Order and the draft Rules, with some extra items (in italics) derived from Mr. Berrie's more detailed draft Rules. A further draft would be submitted to the next meeting.

3. **The Committee's Advisory Role in Relation to Standards of Conduct, Performance & Ethics**

Mr. Berrie reminded the Working Party that the Committee's role included advising the Council and other committees on the above. This was, by-and-large, a new departure. The HP Order stated:

21.—(1) The Council shall—

(a) establish and keep under review the standards of conduct, performance and ethics expected of registrants and prospective registrants and give them such guidance on these matters as it sees fit;

(3) The Council shall—

(a) before establishing any standards or arrangements mentioned in paragraph (1), consult the Conduct and Competence Committee in addition to the persons mentioned in article 3(14);

27. The Conduct and Competence Committee shall—

(a) having consulted the other Practice Committees as it thinks appropriate, advise the Council (whether on the Council's request or otherwise) on—

(i) the performance of the Council's functions in relation to standards of conduct, performance and ethics expected of registrants and prospective registrants,

(ii) requirements as to good character and good health to be met by registrants and prospective registrants, and

(iii) the protection of the public from people whose fitness to practise is impaired;

The Committee would therefore need to be conversant with matters of professional conduct, performance and ethics, which would need to be included in its training. In so doing, it would need to seek the help and advice of the professional bodies, other regulators, experts on professional and healthcare ethics, and centres and institutions which specialized in this area. It was considered that some members of the Committee might wish to specialize in this area and, in so doing, be in a position to advise the Committee.

The Council and Committee would need also to establish procedures for dealing quickly and effectively with individual queries from registrants, potential registrants, employers, education centres and the public in this area.

It was **AGREED** that both these areas be considered again in more detail at the next meeting.

02/41 Draft Statement of Good Character, Conduct & Health

1. **Professional Indemnity**

The new Nursing & Midwifery Council had informed the Council that it had received clear, legal advice that there should be a clause in its own version of the above requiring

all nurses, midwives and health visitors to have professional indemnity insurance. That Council stated that “The advice makes clear that this represents part of the Council’s responsibilities in terms of public protection, i.e. promoting the interests of patients and clients, as well as enhancing the good standing and reputation of the professions. The vast majority of nurses, midwives and health visitors are covered for acts or omissions by dint of their employer’s vicarious liability insurance scheme. The requirement would be to ensure that indemnity cover was in place for all activities not provided for by an employer’s vicarious liability insurance scheme, e.g. for private or independent practice, or some aspects of practice such as counselling.” It was also pointed out that the majority of the HPC’s registrants were covered also by their professional association’s indemnity insurance schemes. The clause which the NMC had drafted for possible inclusion into its Statement was as follows:

A registered nurse or midwife in advising, treating and caring for patients/clients must be indemnified against claims for professional negligence. This is in the interest of both patients/clients, who may have a right to compensation, and the registrant.

Many employers provide liability insurance to cover the acts or omissions of their employees. Such cover does not, normally, extend to activities carried on outside of work, nor private or independent practice. Nurses and midwives must obtain adequate insurance or professional indemnity cover for practice which is not covered by an employer’s indemnity scheme.

The Working Party believed that the imposition of such a requirement on all registrants would potentially result in a considerable financial burden on at least some of them and that whether or not registrants were covered by professional indemnity insurance was not the Council’s concern. However, it was **AGREED** that before a final decision was made on this, legal advice be sought.

2. **Discussion Paper: Requirements for evidence of good health and character**

The Working Party considered a discussion document produced by the Nursing & Midwifery Council and Mr. Berrie’s interim response. The document considered several options in relation to two items in that Council’s Order which were very similar to those in the Health Professions Order. The first related to the following item in the latter:

“**15.**—(1) The Council shall from time to time establish—

(b) the requirements to be satisfied for admission to, and continued participation in, such education and training which may include requirements as to good health and good character.”

It was **AGREED** that the Working Party advised the Council not to lay down detailed requirements in this respect, but give general advice.

The second related to certification that individuals who had completed courses providing eligibility for registration, met the Council’s standards of good character, conduct and health. The Working Party was minded to continue the current procedure, which relied upon the relevant education centre and individual with overall

responsibility for the particular course signing that the individuals on the pass-list met these standards. It was agreed that this be considered in more detail at the next meeting, where an outline of the current process would be provided.

3. **Record-keeping**

The following comment had been sent to the Secretary by Mr. I. Massey, alternate Prosthetist & Orthotist member, having consulted Mr. Munro, the Prosthetist & Orthotist member:

“I would like to bring to your attention my concerns with regards to the events which occurred at our disciplinary hearing last week. The clinical notes from a patient's file were presented as evidence. It was clear to see that the notes were not complete i.e. some pages with entries which would have related to episodes of care relevant to the case, were missing. The legal advisor was most surprised that the notes were not paginated, as this would have confirmed that evidence was missing. If they were paginated, then removal, or replacement, would be difficult as on occasions there are more than one profession entering information. I understand that at present the guidance which will be out for note keeping is not to be profession specific; and I agree it cannot be. However I feel we should be more prescriptive than generic. This is an opportunity to lay down some strict guidelines which account for best practice, not being vague and too generic.

We really must be more assertive with this if at all possible.

Please could you raise this at your next conduct and competence committee meeting as a request for more direct instruction and accountability on the issue of clinical note keeping?”

The Working Party considered that details on the above should be left to individual codes produced by the relevant professional bodies. However, it was **AGREED** that the words “complete and” be added to the last sentence in the first paragraph of the item in the Statement under “Record Keeping”, which would now read:

“All such records must be complete and legible, and entries should be written, signed and dated by the Health Professional.”

02/42 Date of Next Meeting

It was **AGREED** that the next meetings be held on 7th January and 20th February 2003.

CHAIRMAN
7th January 2003