

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the thirteenth meeting of the Health Professions Council held at **11.00am on Wednesday 17 September 2003** at the Park House, 184 Kennington Park Road, London, SE11 4BU.

PRESENT: Mr C Lea (in the Chair)
Mrs S Chaudhry (part)
Mr R Clegg
Miss C Farrell
Miss A Foster
Professor T Hazell
Professor J Lucas (part)
Miss M MacKellar
Ms J Manning
Mrs C McGartland
Mr K Ross
Miss P Sabine
Dr A Van der Gaag
Mr N Willis
Dr A Yule
Miss E Thornton

IN ATTENDANCE:

Mr P Baker, Finance Director
Mrs A Barnes, Director of Legal Services
Dr P Burley, Director of Education and Policy
Mr G Milch, Director
Ms N O'Sullivan, Secretary to Council
Miss L Pilgrim, Director
Miss C Savage, Director
Mr M Seale, Chief Executive and Registrar
Miss D Thompson, Human Resources Director
Miss R Tripp, Communications Officer

Item 1.03/94 INTRODUCTION AND WELCOME

- 1.1 Mr Lea welcomed all members and non members, who were attending the meeting. He noted that Professor Brook had injured her knee and that in her absence he would be chairing the meeting. Professor Brook was contactable during her absence by telephone and by email.

- 1.2 The Council requested that the Secretary send a letter to the President on behalf of the Council expressing its good wishes.

Action: NO'S

Item 2.03/95 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following Council members: Professor N Brook, Miss M Crawford and alternate Professor C Lloyd, Professor J Harper, Dr R Jones, Professor Sir John Lilleyman, Mr W Munro and alternate Mr I Massey, Dr J Old and Dr G Beastall, Mrs J Stark, Mrs B Stuart, Professor D Waller and alternate Mr M Barham.

Item 3.03/96 APPROVAL OF AGENDA

- 3.1 The Council approved the agenda which was noted to be lengthy.

Item 4.03/97 MINUTES

- 4.1 It was agreed that the minutes of the twelfth meeting of the Health Professions Council be confirmed as a true record and signed by the chairman subject to the following amendment:
- 4.2 11.5 The issue of pressing concern was that more than a dozen aspirant occupations had indicated that they might seek to be regulated by the HPC and that it was possible that a similar number would do so within the next year.

Item 5.03/98 MATTERS ARISING

- 5.1 Item 6 - President's Report
 - 5.1.1 The Council noted because of pressure on the agenda for the 'away day' in October the discussion on the approach to regulation in countries outside the United Kingdom would be deferred until a future meeting. It was also noted that this was an area which would require some research and that the professional bodies held relevant information.
- 5.2 Item 10 – HPC Review of Aspirant Occupations Seeking Regulation
 - 5.2.1 The Council noted that the application pack for new professions would be amended once a year and that the website had been amended to notify perspective applicants that there could be a delay in processing their application.
- 5.3 Items 13,14,15 – Professional Liaison Groups (PLG)
 - 5.3.1 The Council noted that three professional liaison groups had been established and had met. A timetable of work had been agreed. A draft consultation document regarding Continuing Professional Development (CPD) would be brought to Council in March 2004.

5.4 Item 17 - HPC Statutory Accounts 2002-2003

5.4.1 The Council noted that the Chairman of the Finance and Resources Committee, the Finance Director, the Chief Executive and Mr D Ross (co-opted member of the Finance and Resources Committee) had met as a working group and had given the President the authorisation to sign off the accounts.

5.5 Item 25 – Risk Assessment Plan

5.5.1 The Council noted that the staff pension scheme would be discussed at the next meeting of the Finance and Resources Committee to be held on 23 September 2003.

Item 6.03/99 PRESIDENT'S REPORT

6.1 In the absence of the President this item was deferred.

Item 7.03/100 CHIEF EXECUTIVE'S REPORT

7.1 The Chief Executive, Mr Seale, noted that the Executive was making contingency plans in case of a postal strike.

7.2 The registration system was now operational and would be reviewed at the next meeting of the Finance and Resources Committee.

7.3 Refurbishment of the interior of Park House had now been completed.

7.4 Three hundred and thirty partners had now been appointed. Council members chairing panels were requested to attend appropriate training sessions.

7.5 The Council noted service levels had dropped during the changeover from the old legislation to the new Rules. These had now returned to their normal levels. Additional staff had been recruited to help with the backlog of work which had built up. These would be working in the evening. Also there had been an increase in numbers of registrants coming off the register. It was likely that this was due to the rise in fees and also the health declaration requirements.

7.6 The Council noted that 5 MPs had signed an early day motion against the Rules. In the unlikely event that this was carried the Rules would be debated in Parliament.

7.7 To date the numbers applying under the grandparenting process were small.

7.8 The Executive Management Team would be attending an off-site event during which the resource implications of the expansion of the register to include new professions would be considered.

- 7.9 Mr Seale noted three further items which had been raised since the agenda had been despatched to members which were as follows;
 - 7.9.1 Written comments on an item on the agenda had been received from a Council member who was unable to attend the meeting. Mr Seale sought guidance from the Council on how such requests should be handled in the future.
 - 7.9.1.1 The Council noted that in such situations, where a registrant and alternate member or a lay member was unable to attend a meeting and instead submitted written comments, the Chairman should take a decision as to whether these should be considered by the meeting.
 - 7.9.2 A request to address the meeting regarding the application from the Clinical Perfusion Scientists for regulation had been made by a non-Council member.
 - 7.9.2.1 The Council noted that such comments could be made during the Department of Health consultation regarding the registration of a new profession. Therefore all such requests to address a Council meeting should be turned down.
 - 7.9.3 The Department of Health had indicated that the legislation regarding the regulation of healthcare scientists professions would not be in place until 2005 at the earliest. In view of this it was agreed that Council should consider each application from healthcare scientist groups and if appropriate give provisional approval to their regulation in principle. Further consideration could be given to these provisional decisions when the extent of the number of applications was known.

Item 8.03/101 REGULATION OF NEW PROFESSIONS BY THE HPC
(Application and Presentation from the Clinical Perfusion Scientists)

- 8.1 The Council received an application for regulation from the Society of Clinical Perfusion Science.
- 8.2 The Council received a presentation from Mr G Webb, Society of Clinical Perfusion Science of Great Britain and Ireland. Mr I Curle, Mr I Johnson and Mr S Robins were also in attendance.
- 8.3 The Council noted that entry to the profession was via an examination set by the Society of Clinical Perfusion Science. Successful completion of the examination allowed candidates to go onto the Society register. However membership of the Society was not a requirement for being on the register.
- 8.4 Trainee entry to the profession was open to individuals eligible to undertake a part-time degree course BSc(Hons) Clinical Science Perfusion (validated by the Open University) based at the North East Surrey College of Technology (NESLOT) in Ewell, Surrey.

- 8.5 The course was accredited by the Open University but there was no independent quality review.
- 8.6 The Council noted all HPC regulated professions had to meet the HPC standards for education and training.
- 8.7 The Council noted that Clinical Perfusion Scientists were members of the surgical team and practised within a defined area of expertise and training within that team.
- 8.8 Clinical outcomes were audited on a monthly basis and practice was modified or changed as a result of these audits.
- 8.9 The Society had recently balloted members and there was a 98% majority in favour of regulation of the professions.
- 8.10 The Council noted that the Society had in place disciplinary procedures to enforce standards and that the disciplinary practice committees included lay membership.
- 8.11 The Council noted that the comments made regarding the application could be raised again when the Department of Health consulted on the application for regulation.
- 8.12 The Council noted that the Health Professions Order Part 11 Article 3(17) stated that: (17) the Council may (a) make recommendations to the Secretary of State concerning any profession which in its opinion should be regulated pursuant to section 60(1)(b) of the Health Act 1999.
- 8.13 The Council agreed to make a preliminary recommendation to the Secretary of State that Clinical Perfusion Scientists should be regulated. This preliminary recommendation would be subject to review in 18 months time when the extent of applications from healthcare scientists professions was known.
- 8.14 The Council agreed that the Chief Executive would draft a letter regarding this decision to the Secretary of State to be brought to the next Council meeting in October for comment and approval.

Action: MS

Item 9.03/102 NOTES OF THE MEETING TO DISCUSS THE STRUCTURE OF THE REGISTER HELD ON 21 JULY 2003

- 9.1 The Council received notes of the meeting to discuss the structure of the register held on 21 July 2003.

Item 10.03/103 STRUCTURE OF THE REGISTER

- 10.1 The Council received a draft consultation paper which had been prepared by the Chief Executive on the structure of the register.
- 10.2 The draft consultation paper sought views on how HPC should structure the Register and the changes to the number of Council members following a decision by the Secretary of State to regulate an aspirant group.
- 10.3 The Council agreed the following;
 - (i) that Council member's comments on the draft document should be forwarded to the Executive by 3 October 2003,
 - (ii) that the final draft would be represented the Council meeting on 8 October,
 - (iii) that the Chief Executive and Registrar should publish the paper on 17 October 2003.

Action: MS

- 10.4 The Council noted that a further meeting to discuss the structure of the register could be held at a future date.

Item 11.03/104 APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN OF COMMITTEES

- 11.1 The Council received a paper from the Chief Executive setting down draft proposals for the appointment of the Chairman and Vice-Chairman of Committees.
- 11.2 The Council agreed that each committee should seek nominations from amongst their members for the positions of Chairman and Vice-chairman of each committee and that these would be considered at the next Council meeting.
- 11.3 All appointments would be until the end of the second transitional period.

Item 12.03/105 MINUTES OF THE COMMUNICATIONS COMMITTEE HELD ON 10 JULY 2003

- 12.1 The Council received the minutes of the Communications Committee held on 10 July 2003.
- 12.2 Mr Lea stated that he wished his apologies to be noted in the minutes of the meeting.
- 12.3 The Council noted that the Committee had discussed internal HPC communications in relation to the Executive and Council and the directors and Council members. Feedback from staff at the HPC had

suggested that they would welcome visits from Council members to observe the work of individual departments.

- 12.4 Council members were requested to inform the Communications Department of any presentations they would be making on behalf of the HPC. Details of these would be added to the HPC website.

Action: All members

- 12.5 The Council noted the market research carried out by Opinion Leader Research with regard to the brochures which had been published by the HPC.
- 12.6 The Council noted that a 'Council section' had been created on the HPC website. This was not accessible to non-members. Members would be given a password to access the site.
- 12.7 The draft annual report was in the final stages of preparation.
- 12.8 The Secretary to the Communications Committee would be writing an article regarding the measurement of applications against the Standards of Proficiency for individual professions.

Action: CM

Item 13.03/106 APPROVALS PROCESS FOR PUBLICATIONS

- 13.1 The Council received a paper from the Chairman of the Communications Committee setting out an approval process for publications.
- 13.2 The Council noted that that the purpose of the procedure was to ensure that brochures were produced in as efficient a manner as possible while ensuring that relevant people and committees had a chance to see text and make changes before final sign-off.
- 13.3 The Council agreed the process.

Item 14.03/107 MINUTES OF REGISTRATION COMMITTEE HELD ON 15 JULY 2003

- 14.1 The Council received the minutes of the Registration Committee held on 15 July 2003.
- 14.2 The Council noted that a special meeting of the Registration Committee would be held on 24 September to discuss the issue of return to practice.

- 14.3 The Council noted that the Secretary of the Registration Committee should confirm why Mr G Sutehall was listed as an ex-officio member of that Committee.

Action: LP

- 14.4 Miss MacKellar expressed concern that there was no blanket requirement to test the language skills of European Dietitians applying to join the register in the United Kingdom.

Item 15.03/108 MINUTES OF THE FINANCE AND RESOURCES COMMITTEE HELD ON 22 JULY 2003

- 15.1 The Council received the minutes of the Finance and Resources Committee held on 22 July 2003.
- 15.2 The Council noted that the budget would be discussed at the next meeting of the Finance and Resources Committee on 23 September. The Council agreed to postpone the ratification of the budget until the 8 October Council meeting.

Item 16.03/109 HPC STATUTORY ACCOUNTS 2002-2003

- 16.1 The Council received the HPC statutory accounts 2002-2003 from the Chairman of the Finance and Resources Committee.
- 16.2 The Council noted that the statutory accounts had been signed off by the President and the Chief Executive, together with Audit Opinions signed by BDO Stoy Hayward and the National Audit Office.

Item 17.03/110 EXPENSES POLICY FOR COUNCIL MEMBERS AND PARTNERS

- 17.1 The Council received a draft expenses policy for Council members and partners.
- 17.2 The Chairman stated that that paper had been drafted following confusion regarding the amount Council members acting in the capacity of partners were entitled to claim in attendance allowance.
- 17.3 The Council noted that the usual procedure was that amendments to the expenses policy should be considered by the Finance and Resources Committee.
- 17.4 Following some discussion the Council agreed that a paper on this matter would be considered at the next meeting of the Finance and Resources Committee on 23 September. The matter would be reconsidered at the next meeting of Council on 8 October.

- 17.5 It was agreed that in the meantime Council members acting as partners should be paid a maximum daily attendance allowance of £260. Any current claims for attendance allowance which had been reduced would be amended.

Action:PB

- 17.6 Travel expenses for non Council members acting as partners should be reimbursed at a standard rate for the present.

Item 18.03/111 CONSULTATION PAPERS RECEIVED SINCE THE LAST MEETING AND THOSE HELD OVER FROM 4 JUNE 2003 COUNCIL MEETING

- 18.1 The Committee received the paper.
- 18.2 The Council noted that clarification was still awaited from the Welsh Assembly regarding the HPC's statutory status in relation to the consultation 'Welsh Assembly Government: the Constitution and Membership of Health Professions Wales'.
- 18.3 The Council welcomed the introduction of a no-fault compensation scheme in the NHS for cases of medical negligence.
- 18.4 The Council agreed that the General Medical Council (GMC): New Arrangements for Registration and Licensure should be circulated to the Investigating Committee in addition to the Conduct and Competence Committee.
- 18.5 The consultation on the proposals for the statutory regulation of operating department practitioners was available from the Executive on request.

Item 19.03/112 CONSULTATION ON SALE SUPPLY, SUPPLY AND ADMINISTRATION OF MEDICINES BY ALLIED HEALTH PROFESSIONALS UNDER PATIENT GROUP DIRECTIONS

- 19.1 The Council received the paper.
- 19.2 The Council noted that the proposals contained in the paper would not effect the standards of proficiency.
- 19.3 The Council agreed that the response to the consultation document should be circulated to Council.

Item 20.03/113 EARLY RECEIPT OF ALLEGATIONS BY THE COUNCIL

- 20.1 The Council noted that in respect of allegations of misconduct, incompetence or ill-health the Council could now be involved at an

early stage rather than after all other processes had taken place as was the case under the Professions Supplementary to Medicine Act 1960.

- 20.2 In line with the recommendation from the Conduct and Competence Committee the Council agreed that, where practicable and legally possible, the Council's proceedings ran in parallel with other proceedings, such as the internal disciplinary processes of an employer.

Item 21.03/114 APPOINTMENT OF REGISTERED MEDICAL PRACTITIONER TO THE CONDUCT AND COMPETENCE COMMITTEE

- 21.1 The Council received the paper.
- 21.2 The Council agreed that the Chief Executive should initiate discussions with the Privy Council Office with a view to the possible removal of the requirement in the Health Professions Order 19(2), Schedule 1 to appoint a registered medical practitioner to the Conduct and Competence Committee and the Investigating Committee.

Action: MS

Item 22.03/115 RECOMMENDATION FROM PARTNER APPOINTMENT PANELS

- 22.1 The Council agreed that that this item would be discussed as part of the agenda for the private meeting as the business under consideration concerned a specific applicant.

Item 23.03/116 COUNCIL FOR THE REGULATION OF HEALTHCARE PROFESSIONALS SECTION 29 REFERRALS

- 23.1 The Council received the paper.
- 23.2 The Council noted that one of the key roles of the Council for the Regulation of Healthcare Professionals (CRHP) was to refer to the courts a decision of HPC's Conduct and Competence Panel where they believed the HPC had been too lenient or an inappropriate ex-registrant was reinstated to the register. CRHP's power was called a Section 29 Order and the power had come into force. A period of 28 days was allowed between the final HPC decision and the decision by CRHP to refer the case to the courts. Speed was therefore of the essence.
- 23.3 CRHP would be consulting on how the process should be refined. This exercise would not be concluded for at least four months. Therefore all the regulators of healthcare professionals and CRHP needed to establish interim arrangements for identifying potential referrals.

23.4 The Council noted an extract from the committee stage of the NHS Reform and Health Care Professions Bill on 13 December 2001 which put the new power in context;

Mr. Hutton:

"...we envisage that the clause will work... as a provision of last resort to deal with exceptionally grave cases in which there has been a perverse decision or the public interest has not been fully and properly served. There have been very few such cases-probably only half a dozen in the past four or five years. The power will need to be used only in exceptionally rare circumstances.

[the Clause] gives three separate thresholds that the Council must satisfy before it can refer a case to the High Court. First, it must satisfy itself that the decision has been unduly lenient; secondly, that it should not have been made; and, thirdly, that it would be desirable for the protection of members of the public. I am convinced that the clause does not constitute a right to roam or to interfere with every disciplinary decision taken by the regulatory bodies, and I would not propose it if it would have that effect."

Hansard, 13 December 2001 at col 1424

23.5 After discussion the Council agreed the following;

- (i) **To alert all potential S29 referrals to the President and Chairman of the Conduct and Competence Committee.**
- (ii) **To inform CRHP of potential S29 referrals.**
- (iii) **To report all referrals to the next meetings of the Council and Conduct and Competence Committee.**
- (iv) **To report to the Council progress on and the conclusions of the CHRP consultation exercise.**

23.6 Mr Bracken agreed to investigate the extent to which CRHP required transcripts of all cases.

Action: MS

Item 24.03/117 DATES OF 2004/5 COUNCIL MEETINGS

24.1 The Council received a paper setting out the dates of Council meetings for the coming year which had been approved by the President.

24.2 The Council agreed that this should be discussed at the next meeting of Council on 8 October.

Item 25.03/118 RULES

- 25.1 The Council noted that the Rules had been laid before Parliament. These came into force on 9 July 2003.
- 25.2 The Council agreed that the Chief Executive, Mr Seale, should write a letter of thanks to the Department of Health solicitor for all her assistance with the drafting of the Rules.

Action: MS

Item 26.03/119 APPOINTMENT OF CHIEF EXECUTIVE/REGISTRAR AS ACCOUNTING OFFICER

- 26.1 The Council noted the appointment of the Chief Executive/Registrar as Accounting Officer for the Health Professions Council.

Item 27.03/120 FREEDOM OF INFORMATION ACT

- 27.1 The Council noted the paper.

Item 28.03/121 NOTES OF THE HEALTH COMMITTEE HELD ON 16 JULY 2003

- 28.1 The Council received the notes of the Health Committee held on 16 July 2003.

Item 29.03/122 MINUTES OF THE CONDUCT AND COMPETENCE COMMITTEE HELD ON 22 JULY 2003

- 29.1 The Council received the minutes of the Conduct and Competence Committee held on 22 July 2003.
- 29.2 The Chief Executive agreed to investigate the creation of a standard approach to the drafting of minutes and papers.

Item 30.03/123 MINUTES OF THE EDUCATION AND TRAINING COMMITTEE HELD ON 30 JULY 2003

- 30.1 The Council received the minutes of the Education and Training Committee held on 30 July 2003.

Item 31.03/124 MINUTES OF THE INVESTIGATING COMMITTEE HELD ON 31 JULY 2003

- 31.1 The Council received the minutes of the Investigating Committee held on 31 July 2003.

Item 32.03/125 COUNCIL MEMBERS INDUCTION AT PARK HOUSE

- 32.1 The Council noted that as part of an ongoing programme of induction and training the Executive was proposing to offer all Council members the opportunity of spending two days at Park House visiting all departments and meeting staff.
- 32.2 The programme had been piloted and on 2 and 3 September 2003. Mrs Chaudhry had taken part in a trial run. She reported that the visit had given her the opportunity to get to know staff she did not meet in the course of her activities as a Council member. She had been extremely impressed by the hard work of all staff at Park House and thanked the Chief Executive and the Secretary for organising the event. She recommended that all Council members take the opportunity to undertake the training.
- 32.3 It was agreed that the Secretary should circulate members with a list of proposed dates for the induction training and that these should be allocated on a first come basis.

Action: NO'S

Item 33.03/126 HEALTH SERVICE CIRCULAR/LOCAL AUTHORITY CIRCULAR

- 33.1 The Council noted that the Health Service Circular 'Directions to NHS Trusts, Primary Care Trusts and Special Health Authorities and the Local Authority Circular 'The Local Government (Employment of Health Professionals (England) Direction 2003 applied to England only. These duties were in the remit of the Devolved Assembly in Wales and the Scottish Parliament.
- 33.2 The Council noted that the Scottish members had arranged a meeting with representatives of the Scottish Parliament. It was agreed that the Chief Executive should be invited to this meeting.

Item 34.03/127 COUNCIL MEMBERSHIP

- 34.1 The Council noted that Professor Sir John Lilleyman, lay member, had resigned from Council as of 17 September 2003. The Department of Health was seeking a replacement but could not put a timescale on this.
- 34.2 The Council agreed that the Secretary should write to Professor Lilleyman on behalf of the Council, thanking him for his services to the Council.

Action: NO'S

Item 35.03/128 ANY OTHER BUSINESS

- 35.1 The Council noted that the building project had now been completed and expressed its thanks to the Office Manager Ms D Farley for completing this project successfully and on time.

Item 36.03/129 DATE AND TIME OF NEXT MEETING

- 36.1 The next meeting of the Council would be held at 12 noon on Wednesday 8 October 2003. This would be followed by an 'away day' at 2pm. The meeting and 'away day' would be held at the Marriott St. Pierre, Hotel and Country Club, St. Pierre Park, Chepstow, Monmouthshire, South Wales.

- 36.2 Further meetings would be held on the following dates:

Thursday 11 December 2003 (start time tba)

Tuesday 2 March 2004 (11am)