

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the seventeenth meeting of the Conduct and Competence Committee held at **11:00am on Wednesday 25th January 2006** at the Health Professions Council, Park House, 184 Kennington Park Road, London, SE11 4BU.

Mr K Ross (Chairman)
 Mrs M Clark-Glass
 Ms H Davis
 Professor C Lloyd
 Mr P McFadden
 Ms H Patey
 Miss P Sabine

IN ATTENDANCE:

Miss S Butcher, Secretary to Committees
 Miss K Johnson, Director, Fitness to Practise
 Miss L McKell, Partners Manager
 Mr M Seale, Chief Executive

Item 1.06/01 INTRODUCTION AND WELCOME

- 1.1 The Chairman welcomed all Committee and non-Committee members to the meeting.

Item 2.06/02 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following committee members; Mr D Proctor and Dr G Sharma.

Item 3.06/03 APPROVAL OF AGENDA

- 3.1 The Conduct and Competence Committee approved the agenda.
- 3.2 A Committee member reported that at the Standards of Proficiency professional liaison group meeting that was held the day before, the Group had recommended that the fitness to practise panel Chairmen be asked to provide feedback on the Standards of Proficiency. The Committee noted

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that a Review Day for panel members and Chairmen was due to be held where this could be discussed further. Any other queries regarding this matter should be directed to the Policy Manager Ms R Tripp and or the Policy Officer Mr M Guthrie.

Item 4.06/85 MINUTES OF THE CONDUCT AND COMPETENCE COMMITTEE COMMITTEE MEETING HELD ON WEDNESDAY 16 NOVEMBER 2005

- 4.1 It was agreed that the minutes of the sixteenth meeting of the Conduct and Competence Committee be confirmed as a true record and signed by the Chairman, subject to the following amendment to 5.6:

‘The Committee noted that one HPC case had been referred to the High Court by the Council for Healthcare Regulatory Excellence (CHRE)’.

Item 5.06/05 MATTERS ARISING

- 5.1 Item 5.1 – Matters Arising – Foster and Donaldson Review Groups
The Committee noted that the Donaldson review had not yet concluded. The Department of Health wished to release the findings of both groups together which were now scheduled for June 2006. The HPC would be informed within 24 hours prior to the reports being released.
- 5.2 Item 5.3 – Matters Arising – Fitness to Practise Chairmen and Deputy Chairmen Meeting
The Committee noted that the meeting of the Fitness to Practise Chairmen and Deputy Chairmen had now been set for Friday 3rd March 2006.
- 5.3 Item 12.5 – Matters Arising – Case Management Strategy
The Committee noted that a review of all fitness to practise standard documentation was to be undertaken.
- 5.4 The Committee notes that the HPC Sanctions Practice note included guidance for panels which asked them to consider whether being on the sex offenders register was conducive with professional regulation,

Item 6.06/06 CHAIRMAN’S REPORT

- 6.1 The Chairman reported that an agenda for the forthcoming fitness to practise Chairmen and Deputy Chairmen meeting had been drafted. One of the main purposes of the meeting was to discuss the content of the fitness to practise report. The Chairman of the Conduct and Competence Committee would act as Chairman of the Fitness to Practise Chairman and

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Deputy Chairman meeting as it was a requirement of the Health Professions Order 2001 (HPO) for the Conduct and Competence Committee to consult with the other fitness to practise committees.

- 6.2 The Committee noted that a Chairman and Deputy Chairman of the Investigating Committee had now been elected.
- 6.3 The Chairman reported that he had met with the Executive team to discuss the development of the strategy concerning an Equality and Diversity scheme. This would be presented to Council for approval in March 2006 and would then go back to the Conduct and Competence Committee for their review.

Action: tbc

Item 7.06/07 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 7.1 The Conduct and Competence Committee received the Director of Fitness to Practise report.
- 7.2 The Committee noted that the case to answer rate was currently 56%. It further noted that the High Court had remitted one case back to the Conduct and Competence Committee for a rehearing. It was noted that 93 cases were currently awaiting hearing and that an additional Hearings Officer and Case Manager were being recruited.
- 7.3 The Committee noted that cases were taking longer to complete. It was anticipated that the case management strategy recently approved by the Fitness to Practise Committees would assist in the running of the fitness to practise process.
- 7.4 The Committee discussed whether issues such as poor note taking at hearings affected the case to answer referral rate and if international registrants were attributing to the case load. The Committee noted that a relatively small percentage of registrants currently had had an allegation made against them 0.1%, but were nevertheless in agreement that the types of allegations made against registrants needed to be reviewed. This information would also need to be fed back to the Education and Training Committee. The Committee noted that the ftp tracking system which was to be introduced as of mid-February 2006 would assist in the identification of any emergent trends and these would be additionally illustrated in the ftp annual report. The Director of Fitness to Practise reported that an analysis of each case was currently being undertaken and the data would be pulled together shortly.

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- 7.5 The Committee noted that the ftp annual report would look at ftp trends and analysis more extensively, key messages and the learning points derived from those HPC cases referred to the Council for Healthcare Regulatory Excellence (CHRE). The Committee noted the increased number of conduct and competence cases being heard and was perhaps indicative of a greater awareness of the HPC following the organisations communication campaigns. It also discussed the increased use of Article 22(6). Article 22(6) allowed the Council to undertake an investigation into a registrant's fitness to practise if no formal allegation had been made.
- 7.6 The Committee discussed the large number of cases involving paramedics and recommended looking at the trends surrounding why certain professions were more prone to being investigated by ftp. The Committee noted that the HPC took a large number of Operating Department Practitioner cases on when they were transferred across to the HPC register and that this was at great expense. HPC has recommended that the professional body for applied psychologists processes all outstanding cases before they are transferred to the HPC Register. The Committee noted that all healthcare regulators incurred a significant outlay in ftp costs and in some instances this attributed for at least 40%-50% of their expenses.
- 7.7 The Committee discussed the need to raise the awareness of HPC's function as a regulator to the professional bodies and be more proactive in discriminating underlying problems and in turn communicating this information to key stakeholders. The Committee agreed that by it would therefore be useful to examine the types of cases being heard by profession type. The Committee agreed that Operating Department Practitioner's (ODP's) would be specifically analysed as they were one of the most recent aspirant groups to join the register. A summary would be provided for the next meeting of anecdotal evidence. The Committee noted that Council would be asked at its meeting in May 2006 whether aspirant groups should be asked to adhere to the standards of proficiency before they are considered for registration by the HPC.

Action: KJ/MJS

Item 8.06/08 STRATEGIC INTENT

- 8.1 The Conduct and Competence Committee received a paper from the Chief Executive for discussion/approval.
- 8.2 The Committee noted that the strategic intent document had been reviewed at Council's Away Day in October 2005 and all comments received incorporated to date. The strategic intent sat in the public domain

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and was one of three documents which the HPC produced in addition to the annual budget and the 5 year financial plan. The Committee agreed to review section 6 'Issues to Resolve'. The Committee noted that HPC had undergone extensive change and growth over the last four years and was envisaged to experience as much change over the next four years.

- 8.3 The Committee noted that the outcome of the Foster and Donaldson review would now be produced in June 2006. The subsequent policy decisions to derive from the review now sat in the political domain as it was now outside of the control of civil servants. It was likely that the review would necessitate changes to the Health Bill. Section 60 Orders may well be used as a way to trial parts of these policies with the HPC when aspirant groups were recommended for regulation. The Committee noted that the use of Section 60 Orders was becoming increasingly restrictive when it concerned controversial matters that required greater consideration.
- 8.4 The Committee noted that HPC would be considering establishing home country representation in places like Scotland as it was becoming increasingly evident that processes involving health regulation were changing rapidly there and therefore necessitated HPC to establish some sort of presence so to keep abreast of imminent updates. The Nursing and Midwifery Council (NMC) and General Medical Council (GMC) already had offices in Scotland and one of the proposals was to hot desk in another regulators office.
- 8.5 The Committee noted that now HPC had ISO registration the next project would be to start seeking accreditation in 'Investors in People'. Other committees had highlighted their misgivings at a relatively costly exercise.
- 8.6 The Chairman highlighted for the Committee the most important themes to be derived from the strategic intent for fitness to practise; the implications of the Bichard Inquiry and Foster and Donaldson review and the potential changes which could be made to policies and systems operations. The Committee noted that one of the potential consideration of the Bichard recommendations was if it was necessary to carry out a criminal record bureau check at the time of a registrant's renewal.
- 8.7 The Committee agreed that a mission statement should be included in the strategic intent which qualitatively puts into perspective the issues which HPC faced. The Chief Executive would bring the Committee's comments back to Council for its review in March 2006. The Committee was requested to forward any other comments to the Chief Executive via e-mail.

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Action: MJS**Item 9.06/09 HPC PERFORMANCE APPRAISAL SYSTEM FOR PANEL MEMBERS AND PANEL CHAIRMEN**

- 9.1 The Conduct and Competence Committee received a paper from the Partners Manager for discussion/approval. The Partners Manager reported that she had presented the appraisal system to each of the relevant Committees (i.e. the Visitors appraisal system to the Education and Training Committee, Registration Assessors appraisal system to the Registrations Committee and Panel members and Chairmen appraisal system to the Fitness to Practise Committees).
- 9.2 The Committee noted that all of the statutory and non-statutory committees had been asked to review the appraisal system and all recommendations made would be incorporated for Council's approval in March 2006. The appraisal system had been piloted by HPC's registration assessors and visitors and positive feedback was received.
- 9.3 The Partners manager reported that the Investigating Committee had discussed the fact that feedback on poor performance should not be communicated over the telephone. The Partners Manager was currently seeking advice from HPC's solicitor on this matter.
- 9.4 The Committee noted that a positive experience should be derived for the participants in an appraisal as it provided the forum for peer feedback and development of their roles as panel members and or panel Chairmen. The Committee noted that when appraisals were conducted the panel member would appraise themselves first and then the Chairmen would in turn appraise them. The Committee noted that appraisals could only be carried out when hearings were held in public session. As it is important that Panel members are seen, so far as possible, to be free of influence by the HPC, assessments should be made only of the Panel members' and Panel Chairman's public performance. No judgement on performance during the private deliberations should be made. This is to help ensure that the Appraisal system does not fall foul of Article 6 of the European Convention on Human Rights – which guarantees a fair hearing.
- 9.5 The Committee discussed section 4 of the appraisal assessment form specifically where it related to decision making in providing comprehensive reasoning for decisions reached. The Committee were in agreement that this would therefore necessitate the devolvement of information relating to the case which was not for the public domain and could contravene Article 6 of the Human Rights Act. The Committee agreed that this question should then be removed if such an assessment

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could not take place. The Partners Manager would seek further legal advice on this matter.

Action: LM

- 9.6 The Committee discussed the appropriateness of using one form on which each of the assessments would be written. A concern was expressed that panel member number two would therefore see how panel member number one had rated performance and may have an undue influence on the subsequent assessment that they make. The Committee suggested that Panel Members make a joint assessment of the Panel Chairman and would be subject to Council's approval at its March meeting.
- 9.7 The Committee noted that reference had been included in the documentation to registration assessor and visitor appraisal. The Partners Manager would remove these references when the final version was produced. The Committee agreed that the section dealing with formal complaints was bolded for clarification.

Action: LM

- 9.8 The Committee approved the appraisal system for panel members and panel Chairmen subject to the amendments as detailed above and recommended that Council did the same.

Item 10.06/10 HIGH COURT DECISION IN THE MATTER OF DAVID RYELL

- 10.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion/.
- 10.2 The Committee noted that in April 2005 a Conduct and Competence panel heard an allegation regarding the fitness to practise of David Ryell, a Paramedic. The panel found that Mr Ryell's fitness to practise was impaired by his misconduct whilst employed by the London Ambulance Service and subsequently imposed a caution order for four years.
- 10.3 Mr Ryell appealed the decision to the High Court. Seven grounds of appeal were considered, the sixth appeal was allowed to stand whilst all other grounds for appeal were not found to be substantive. The sixth ground for appeal concerned the reasons for the decision because the panel failed to indicate what facts it had found proved in respect of each of the seven incidents and why it related to misconduct on the part of Mr Ryell. The Committee were in agreement that the fact that the case stood on six of the grounds of appeal suggested far more strengths than weaknesses and that in the main HPC's ftp processes were robust. The level of detail

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required in the decision of order was something that was currently being reviewed and improved upon. The Committee agreed that it was essential for HPC to give more of a clear indication of what it was HPC were mitigating against. This would be dealt with in panel members and panel Chairmen's training days and also in the review day being held for legal assessors at which updated regulatory case law was provided as a matter of course.

Item 11.06/11 ANY OTHER BUSINESS

11.1 There was no other business.

Item 12.06/12 DATE & TIME OF NEXT MEETING

12.1 The next meeting of the Conduct and Competence Committee would be held on Thursday 20th April 2006.

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