

Health Professions Council - 11 December 2008

Declaration of interests

Executive summary and recommendations

Introduction

All members complete a form updating their declaration of interests annually. Members whose interests change during the year should inform the Secretariat of this change.

In order to ensure best practice in governance, it is proposed from 1 January 2009 all committee and Council agendas will include an item for members to declare their interests (pecuniary or otherwise) in any item under discussion at that meeting. A policy has been drafted on the arrangements for declaring interests and the action to be taken if an interest is declared.

Decision

The Council is requested to:

- (1) agree that, from 1 January 2009, all committee and Council agendas will include a standard item on declaration of interests;
- (2) approve the attached changes to the Health Professions Council Standing Orders.
- (3) approve the attached changes to the Council Member Code of Conduct.

Background information

The revised Council members' code of conduct, which was agreed by the Council on 29 May 2008, requires that, if members are participating in Council business where they might have (or seen to be have) an interest in the outcome, or any interest which could otherwise prejudice their decision, they should declare this. The code also requires that Council members should remove themselves from discussion or even in certain circumstances from the room if items on an agenda may raise a serious conflict of interest. The code requires that members should state this to the committee or Council so that it can be recorded in the minutes.

The Council on 29 March 2007 agreed a separate policy for the declaration of gifts, inducements and hospitality received by Council and committee members. This followed a decision by the Finance and Resources Committee on 18 September 2006 to approve a gifts and hospitality policy for employees, which is included in the employee handbook.

Agendas for Education and Training Panel meetings already require members of the Panel to declare any interests related to the programmes which are being considered.

The Audit Committee on 26 September 2008 discussed the issue as part of the annual review of its effectiveness. The Committee agreed that it would be good practice to include a declaration of conflicts of interest on committee and Council agendas as a standing item.

Resource implications

None.

Financial implications

None.

Appendices

Draft Conflict of Interest Policy
Revised Health Professions Council Standing Orders
Revised Council Members Code of Conduct

Date of paper

9 October 2008

Conflict of interest policy

This policy applies to all Council and committee members.

The reason for a policy

The Council members' code of conduct is available on the HPC website at <http://www.hpc-uk.org/aboutus/council/codeconduct/>

The code of conduct requires Council and committee members to maintain high standards of personal conduct. The code requires that Council members should at all times

- act in good faith;
- act in accordance with the Council's objective of protecting the public;
- act in accordance with the seven principles of public life as set out by the Committee on Standards in Public Life;
- take personal responsibility for ensuring that they keep to the code of conduct; and
- treat others equally, fairly, and with respect.

The code also requires that Council members should not:

- act in a way that might bring the Health Professions Council (HPC) into disrepute; or
- use their position for personal gain or to promote their private interests.

Conflicts of interest may arise where an individual's personal or family interests and/or loyalties conflict with those of the HPC. Such conflicts may create problems – they can

- inhibit free discussion;
- results in decisions or actions that are not in the interests of the HPC or protection of the public; and
- risk the impression that the HPC has acted improperly.

The aim of this policy is to protect both the HPC and individuals involved from any appearance of impropriety.

The declaration of interests

Council and committee members are asked to declare their interests and any gifts or hospitality received in connection with their role in the HPC. A declaration of interests form is provided for this purpose, listing the types of interest you should declare.

To be effective, the declaration of interests needs to be updated at least annually and also when any changes occur.

If you are not sure what to declare, or whether/when your declaration needs to be updated, please err on the side of caution. If you would like to discuss this issue, please contact the Secretary to the Council for confidential guidance.

The register of interests for each member is published on the HPC website at: <http://www.hpc-uk.org/aboutus/council/councilmembers/>

What to do if you face a conflict of interest at a meeting

In your role as a member you must consider whether any item of business considered at a meeting concerns any of your registered interests. If so you must make a declaration at the meeting. In addition to considering registered interests, you must also consider whether a meeting might consider an item of business which might be regarded as affecting you or a relative/friend to a greater extent than other persons.

In addition to making a declaration you must also consider whether the interest is so significant that it is likely to influence your judgment. If so you should withdraw from the meeting.

You may, however, participate in discussions from which you may indirectly benefit, for example where the benefits are universal to all those effected by the decision, or where your benefit is minimal. However, if in doubt declare the interest.

If you fail to declare an interest that is known to the Committee Secretary or the Chairman will declare that interest.

Decisions taken where a trustee or employee has an interest

In the event of the Council or committee having to decide upon a question in which a member has an interest, all decisions will be made by vote, with a simple majority required. A quorum must be present for the discussion and decision: interested parties will not be counted when deciding whether the meeting is quorate. Interested Council or committee members may not vote on matters affecting their own interests.

All decisions under a conflict of interest will be recorded by the Secretary to Council or the Secretary to the Committee and reported in the minutes of the meeting. The minutes will record:

- the nature and extent of the conflict;
- an outline of the discussion;
- the actions taken to manage the conflict.

Managing contracts

If you have a conflict of interest, you must not be involved in managing or monitoring a contract in which you have an interest.

Data Protection

The information provided will be processed in accordance with data protection principles as set out in the Data Protection Act 1998. Data will be processed only to ensure that Council and committee members act in the best interests of the HPC. The information provided will not be used for any other purpose.

HEALTH PROFESSIONS COUNCIL

STANDING ORDERS

These Standing Orders, together with the provisions of the Health Professions Order 2001 (the 2001 Order), establish the basic rules about how the Council conducts its proceedings.

Paragraph 13(1) of Schedule 1 to the 2001 Order requires certain procedures to be provided for in the Standing Orders and those procedures have been incorporated.

Unless the context otherwise requires, terms used in the Standing Orders have the same meaning as in the 2001 Order.

Where a procedural point arises which is not covered by either the Standing Orders or the 2001 Order, the common law rules concerning the conduct of meetings will apply.

Meetings

1. The Council shall meet in ordinary session (Ordinary Meeting) not less than four times in each year and at such other times as the Council shall decide.
2. In addition to Ordinary Meetings, a special session of the Council (Special Meeting) may be convened by the Secretary upon the written request of the President, the Chairman of a Statutory Committee or any eight members of the Council.
3. A written request for a Special Meeting to be held shall include details of the business to be transacted at that meeting.
4. A Special Meeting shall take place within 14 days of the Secretary receiving the request for the meeting to be held.

Notice of Meetings

5. The Secretary shall give members not less than seven days written notice of a meeting and the notice shall set out the time and place of, and agenda for, that meeting.
6. Failure to send notice of a meeting to a member shall not invalidate the proceedings of that meeting.

The President

7. The President shall preside at any meeting of the Council.
8. If the President is absent from, or otherwise unable or unwilling to preside at, a meeting the members present shall, as the first business of the meeting, elect one of their number to preside at that meeting.
9. In these Standing Orders references to the "President" include any other member presiding at a meeting in place of the President.

Quorum

10. The quorum at any meeting of the Council shall not be less than half the members of the Council for the time being and of the members which constitute that quorum the number of registrant/practitioner members shall not exceed the number of lay members by more than one¹.
11. If a quorum is not present within 15 minutes of the time appointed for a meeting to commence, all business which should have been transacted at that meeting shall stand over until the next Ordinary Meeting and shall take precedence over the business of that Ordinary Meeting, unless a Special Meeting is called in the meantime for the transaction of that business.

Minutes

12. The Secretary shall keep minutes of each meeting which shall include a record of the members in attendance at that meeting.
13. At each meeting the minutes of the preceding meeting shall be confirmed (or confirmed as amended) and be signed by the President as a true record of that meeting.
14. The signed minutes of a meeting shall, unless the contrary is proved, be conclusive proof of the proceedings at that meeting.

The Secretary

15. The Registrar shall be the secretary to the Council and of any Committee or Sub-Committee established by the Council.
16. The Registrar, with the consent of the Council, may appoint another officer or employee of the Council to act as secretary to the Council or any Committee or sub committee which it has established.

¹ based on current numbers the quorum would be 13 members, 7 registrant/practitioner and 6 lay members

17. In these Standing Orders references to the “Secretary” mean the Registrar or, where a person has been appointed in accordance with Standing Order 16, that person.

Conduct of meetings

18. The order of business at a meeting shall follow that set out in the agenda unless it is varied by the President with the consent of the Council.
19. A member may only initiate a debate or move a motion on a matter which is not on the agenda with the consent of the Council.
20. Subject to Standing Order 11 meetings shall start at the time set out in the notice of meeting and shall normally continue until all the business on the agenda has been disposed of but the duration of a meeting may only exceed three hours with the consent of the Council.
21. The President may, with the consent of the Council, adjourn a meeting, but no business shall be transacted at an adjourned meeting other than the business which had not been disposed of when the adjournment took place.
22. If a meeting is adjourned for more than seven days (but not otherwise) notice of the adjourned meeting shall be given as if it was an Ordinary Meeting.

Voting

23. Except where the 2001 Order specifies a different requirement, and subject to Standing Order 25, any question at a meeting shall be decided by a majority of the members present voting by a show of hands.
24. The election of the President shall be by secret ballot. Members who are eligible to vote but are unable to attend a meeting at which a ballot is to be held may vote by post or appoint another member to act as their proxy and to vote in that ballot on their behalf.
25. In the event of any equality of votes, the President shall be entitled to an additional casting vote (except where the question is the determination of an appeal in accordance with Article 37 of the 2001 Order) or the election of the President.

Approval of resolutions without meeting

26. A resolution which, with the consent of the President, is circulated to, and approved in writing or electronic form by, not less than three quarters of the registrant/practitioner members and not less than three quarters of the lay members entitled to receive notice of and attend a meeting of the Council shall be as valid as if it had been passed at such a meeting.

Rules of Debate

27. A member must speak to the subject under discussion. The President may call attention to any irrelevance, repetition, unbecoming language, breach of order, or breach of the Council Members' Code of Conduct on the part of a member and, where the member persists in that conduct, may direct that member to cease speaking.
28. A ruling by the President on any question of order, whether or not provided for by the Standing Orders, shall be final and shall not be open to debate.

Disorderly Conduct

29. The President may order a member to withdraw from a meeting if, in the opinion of the President, that member has persistently disregarded the ruling of the President or is behaving improperly, offensively or in a manner which is obstructing the business of the meeting.
30. In the event of a general disturbance which, in the opinion of the President, prevents the orderly conduct of business, the President may adjourn the meeting for such period as the President consider appropriate.
31. If a member of the public interrupts the proceedings at any meeting the President may order that person to be removed from the meeting or may order that part of the room which is open to the public to be cleared.

Members' education, training and performance

32. The Council shall establish standards of education and training for members and, as part of those standards, shall provide for members to undergo training to assist them in their performance of their duties.
33. The Council shall establish standards of attendance and performance for members, including a system of annual performance appraisal.
34. Members shall comply with the standards established by the Council under Standing Orders 32 and 33 and shall not, without reasonable excuse, refuse to participate in the training or appraisal processes.

Codes of conduct

35. Members shall comply with the Code of Conduct adopted by the Council and with the seven principles of public life established by the Committee on Standards in Public Life (the Nolan Principles)

Interests of members

36. Members shall make a declaration of their personal interests in accordance with the Members' Interests Registration Scheme established by the Council and shall be under a duty to ensure that the details of their interests set out in the Register of Members' Interests maintained by the Council are accurate and up to date.
37. **The agenda for every meeting shall include as a item of business the declaration of interests and a** member who has a personal interest in any matter under consideration at a **that** meeting, whether or not declared in the Register of Members' Interests, shall promptly disclose that interest to the meeting and, **if the interest is a prejudicial interest** ~~unless the Council determines otherwise,~~ the member shall withdraw from the meeting ~~until the~~ **during the** Council's ~~has concluded its~~ consideration of that matter.

Attendance and Other Allowances

38. Claims for payments, attendance allowances or expenses shall be made by members strictly in accordance with the Members' Payments Scheme approved by the Council.

Removal of members

39. Where any information or allegation comes to the attention of the Council that a member may be in breach of Paragraph 9(2) of schedule 1 to the 2001 Order (which sets out the grounds for removing a member of Council from office) or that the Council member may have committed a deliberate, serious or continued breach of the Code of Conduct, the Council shall instruct the Registrar to send a notice to that member:
- (1) setting out brief details of the information or allegation and the relevant provisions of the 2001 Order;
 - (2) advising the member that, if the information or allegation is true, that the member is liable to be removed from office;
 - (3) informing the member that the Council proposes to consider that information or allegation and that the member has a right to be heard before the Council; and
 - (4) providing the member with 14 days in which to respond.
40. Where, following the service of a notice under Standing Order 39, a member responds to the Registrar expressing a wish to be heard by the Council, the Registrar shall convene a Special Meeting of the Council as if the response from the member was sufficient notice under Standing Order 2 but the only business to be considered at that shall be whether or not to remove that member from the Council.

41. The procedure in Standing Orders 39 and 40 shall not apply in respect of a member of the Council who is removed from office under Paragraph 9(2)(a) of Schedule 1 by a decision of the Privy Council or who is disqualified under Paragraph 9(2)(e) of that Schedule by virtue of an order made by a Practice Committee.

The Registrar, officers and advisers

42. The Registrar shall be entitled to attend and speak at meetings of the Council.
43. The Secretary or any other person advising on the business before a meeting of the Council (including advising the President on issues of order) may attend and, with the consent of the President, speak at that meeting.

Common Seal

44. The Common Seal of the Council shall be kept in safe custody by the Registrar or another officer appointed by the Registrar.
45. The Common Seal shall only be affixed to a document with the consent of the Council or of a committee to which that power has been delegated and where the seal is affixed to a document it shall also be signed by the Registrar and by a member of the Council:

Suspension of Standing Orders

46. Any Standing Order (other than one prescribed by the 2001 Order) may be suspended with the consent of the Council

Committees of the Council

47. The Council may appoint such committees or sub-committees as it thinks fit and, subject to the 2001 Order or any other enactment, may delegate to or confer upon a committee or sub-committee such functions as it may determine.
48. A member of the Council shall be appointed to be the chairman of any committee established by the Council.
49. Except where all the members of a committee or sub-committee agree to waive notice, not less than seven days notice shall be given of an Ordinary Meeting of a committee or sub-committee and not less than three days notice shall be given of a Special Meeting of a committee or sub-committee.

50. The quorum at any meeting of a committee or sub-committee shall, unless another number is fixed by the Council, be one third of the members of that committee or sub-committee but in no case may the quorum of any committee or sub-committee be less than two members (one of whom shall be the chairman).

Standing Orders to apply to Committees etc.

51. Unless the Council makes express provision to the contrary² these Standing Orders shall apply, with any necessary modification, to meetings of committees and sub-committees

Public access to meetings

52. Meetings of the Council, its committees and sub-committees shall be open to the public unless the business under consideration concerns:

- (1) information relating to a registrant, former registrant or applicant for registration;
- (2) information relating to an employee or officer holder, former employee or applicant for any post or office;
- (3) the terms of, or expenditure under, a tender or contract for the purchase or supply of goods or services or the acquisition or disposal of property;
- (4) negotiations or consultation concerning labour relations between the Council and its employees;
- (5) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (6) action being taken to prevent or detect crime or to prosecute offenders;
- (7) the source of information given to the Council in confidence; or
- (8) any other matter which, in the opinion of the President, is confidential or the public disclosure of which would prejudice the effective discharge of the Council's functions.

² In accordance with Paragraph 17 of Schedule 1 to the 2001 Order, the Council has approved separate standing orders for the Education and Training Committee. The Investigating Committee, Conduct and Competence Committee and Health Committee do not have standing orders but operate according to statutory rules made under the 2001 Order

Council Members' Code of Conduct

Contents	Page
A. Introduction	1
B. The role of the Council	2
C. The role of a Council member	2
D. The role of a committee chairman	3
E. The role of a committee member	3
F. The role of the Council President	4
G. The Code of Conduct	4
1. General guidelines	5
2. Confidentiality	5
3. Attending meetings	5
4. Annual performance review	6
5. Register of members' interests	6
6. Conflicts of interests	6
7. HPC employees	6
8. Breach of the Code	7
9. Removal of a Council member from office	7
10. Appeals against removal from office	7
Appendix A : The seven principles of public life	9
Appendix B : Council member complaints procedure	10

Council Members' Code of Conduct

A. Introduction

This document sets out the HPC's expectations of its Council members. As a regulator, the Council sets standards for the conduct, performance and ethics of health professionals on the HPC Register. The HPC therefore also feels that it is important that Council members maintain high standards in that role, and that these standards are made public.

This document contains information about the complementary roles of the Council, a Council member, the President, a committee chairman, a committee member and the President; and a Code of conduct for all Council members.

Application to committee members

Some members of the Council's statutory committees may not be members of the Council but will have been appointed to those committees in order to meet specific statutory requirements or to provide particular expertise.

Those members are appointed on the basis of separate written agreements with the Council but are also expected to adhere to the provisions of the Code of Conduct to the extent that they apply to such members and do not conflict with their written terms of engagement.

In particular, Part E and Paragraphs 1 to 3 and 5 to 7 of the Code should be read, with any necessary modifications, as if references to Council members were also references to committee members.

B. The role of the Council

The role of the Council is to:

- protect the health and well being of those using or needing the services of registrants;
- ensure that the organisation discharges its functions under the Health Professions Order;
- set, review, and update if necessary the strategic intent, and guiding principles;
- encourage open accountability to the public and the professions;
- appoint a Chief Executive and Registrar;
- undertake strategic planning, policy making and development;
- approve the HPC budget;
- ensure and monitor financial probity;
- delegate any functions, as it sees fit, to its committees or the Executive; and
- review how the HPC Executive are carrying out the Council's policy, and measure this against the policies and strategic intent.

C. The role of a Council member

The role of a Council member is to:

- contribute their knowledge and expertise to Council meetings, to aid effective decision-making;
- support the Council's objectives;
- ensure that they have a good working knowledge of HPC's role, processes and other information that may help their role;
- carry out their work for the Council in accordance with the Council members' code of conduct; and
- act as an ambassador for the HPC, representing the Council to stakeholders.

D. The role of a committee chairman

The role of a chairman is to:

- approve agendas and minutes for the committee;
- consult the committee secretary for advice as needed;
- manage the efficient and effective running of meetings by grasping the detail of a wide range of business, and contribute to objective decision making by exercising sound judgement;
- facilitate open discussion, and good decision-making;
- ensure that the meeting is conducted in accordance with the standing orders, and that all members keep to the code of conduct;
- act as spokesperson for the committee if required;
- exercise a casting vote if such action is necessary; and
- take 'chairman's action' ~~if needed~~ *where necessary and if authorised to do so.*

E. The role of a committee member

The role of a committee member is to:

- contribute their knowledge and expertise to meetings, to aid effective decision-making;
- support the Council's and committee's objectives;
- ensure that they have a good working knowledge of HPC's role, processes and other information that may help their role;
- carry out their work for the Council in accordance with the Council Members' code of conduct; and

Note: Chairman's action

It may be the case that deadlines, and the dates of committee meetings mean that the chairman of a committee is asked to take a decision on the committee's behalf in between committee meetings by 'chairman's action'.

The use of a chairman's action should be limited and only taken if the committee has delegated authority to the chairman for that purpose.

Whenever chairman's action is taken it will always be documented by the committee secretary and presented to the committee for ratification at their next meeting.

F. The role of the Council President

In addition to his or her role as a Council member, the HPC President will also:

- provide strong non-executive leadership, and encourage open and pro-active accountability to the public and the professions;
- act as an ambassador for the Council, inspiring confidence in the organisation and representing the interests of statutory regulation to outside bodies;
- develop and maintain constructive collaboration, networking and consultation with key stakeholders, and others when required;
- uphold the public interest in all that the HPC undertakes;
- chair meetings of Council (see information above on the role of a committee chairman);
- monitor and develop Council members' performance, providing support as necessary;
- *manage the process for handling complaints made against Council members; and*
- manage the Council's Chief Executive so as to secure effective oversight of the development and achievement of the Council's strategic, policy and operational objectives and compliance with its statutory responsibilities.
 - set the Chief Executive's objectives
 - monitor the Chief Executive's performance against these objectives
- ~~to nominate a suitable person or persons~~ *one or more members* to carry out the duties of the President if the President is absent or ~~unavailable~~ *otherwise unable to act.*

G. The Code of Conduct

This code of conduct particularly applies to Council members whenever they take part in Council business, or whenever they represent the Council.

Council members should also bear in mind that due to the high profile nature of their role, even when they consider themselves to be working entirely in a private capacity, or for another organisation, they may still be viewed as a representative of, or an ambassador for, HPC. They should therefore still be mindful of this code.

In addition, a Council member whose actions in another capacity may undermine their role as a Council member or public confidence in the Council, may have those actions judged against this code of conduct and action taken accordingly.

1. General guidelines

Council members should at all times:

- act in good faith;
- act in accordance with the Council's objective of protecting the public;
- act in accordance with the seven principles of public life as set out by the Committee on Standards in Public Life (see Appendix A);
- take personal responsibility for ensuring that they keep to the code of conduct; and
- treat others equally, fairly, and with respect.

Council members should not:

- act in a way that might bring the Health Professions Council into disrepute; or
- use their position for personal gain or to promote their private interests.

2. Confidentiality

Most information to which Council members have access as part of their role will be in the public domain. However, there will be times when they may have access to information that is confidential. This may include papers from private sections of Council or committee meetings, ~~information from panel hearings~~ or information relating to HPC employees.

Council members should not disclose any confidential information which they have been given because of their role as a Council member, other than for a proper purpose or if they are required to do so by law. Council members should take appropriate steps to ensure that confidential papers are stored securely. Members should contact the Chief Executive if the status of any information is unclear.

If a member becomes aware of a breach in confidentiality, they must immediately notify the Chief Executive or the President.

3. Attending meetings

Council members should endeavour to attend all Council meetings, and any meetings of committees of which they are a member.

There may be circumstances in which Council members are unable to attend a meeting, in which case they should send their apologies as soon as possible to the Secretary of the Council or the relevant committee. Registrant members who are unable to attend a Council meeting should inform their alternate, giving them as much notice as possible.

Where a Council member is unable to fulfil their role over a prolonged period, they will be asked to discuss their position on the Council with the President.

Council members' attendance records will form part of the Council members' annual performance review and particular consideration will be given to meetings where a Council member has not attended and has not given notice of their absence.

4. Council members' annual performance review

All Council members must participate in the annual performance review system, and follow the agreed procedure.

5. Register of members' interests

All Council members must complete a declaration of members' interests and thereafter take personal responsibility for ensuring that it is kept up to date. The register of members' interests is published online.

Council members must not accept gifts, hospitality, or benefits which might be seen to compromise their role or influence the decisions that they take. Gifts, hospitality or benefits offered as a consequence of HPC business must be registered with the Secretariat within a reasonable period of time, usually within 1 month.

6. Conflicts of interests

If Council members are participating in Council business where they might have (or be seen to have) an interest in the outcome, or any interest which could otherwise prejudice their decision, they should declare this.

Council members should remove themselves from discussion or even in certain circumstances from the room if items in an agenda may raise a serious **(prejudicial)** conflict of interest. They should state this to the committee or council, so that it can be recorded in the minutes.

Further guidance on conflicts of Interest is provided in Appendix C.

7. HPC employees

HPC employees carry out the functions of the HPC, under the strategic direction of the Council. Council members may be asked to sit on selection panels for certain posts, or to consider papers that are presented to meetings

on employment issues, but will not take any other part in the employment matters.

The exception to this is the Chief Executive and Registrar, who is appointed by the Council and managed by the President of the Council.

Council members may wish to comment positively on the work done by employees. This can be done formally, for example by asking a committee to make a note of their thanks to a particular person or group, or by speaking to the employee's manager or to the Chief Executive, or more informally, directly to the employee.

However, any Council member with concerns about the behaviour or performance of a member of staff should always raise these concerns with the Chief Executive, who will deal with the issue as appropriate.

If a Council member has concerns about the Chief Executive, these should be raised with the President.

8. Breach of the Code

Any minor breach of this code of conduct will be dealt with in the first instance informally, for example by the Chairman of a committee or another Council member drawing the breach to the Council member's attention during a meeting or similar.

If a Council member is concerned that another Council member may be in breach of this code, they should raise their concerns with the President.

However, where there is evidence of a deliberate, serious or continued breach of this code of conduct *or a complaint is received about the conduct of a Council member* this will be ~~taken up by~~ referred to the President, who will act in accordance with the complaints procedure set out in Appendix B ~~in a~~ and, ~~especially convened meeting~~ if appropriate, will convene a special meeting of the Council.

9. Removal of a Council Member from office

A Council member may be removed from office as provided in paragraph 9(2) of Schedule 1 to the Health Professions Order 2001 and Standing Order 39 of the Council's Standing Orders.

The President may be removed from office as provided in paragraph 12(2) of Schedule 1 to the Health Professions Order 2001.

10. Appeals against removal from office

Any Council member removed from office may challenge that decision in the courts. However, although the rules do not provide a statutory right of appeal, the Council has adopted the following appeal process.

If a Council member wishes to appeal, they must write to the Secretary of the Council, within 28 days, stating that they wish to appeal, and stating the grounds of their appeal. The Council member should also attach any additional information to this letter.

The Council will then convene a panel for an appeal hearing. The panel will consist of a legally qualified chairman, a lay HPC partner, and a registrant HPC partner.

Legally qualified chairman, for this purpose, means a person who:

- has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990);
- is an advocate or solicitor in Scotland of at least 10 years' standing; or
- is a member of the Bar of Northern Ireland of at least 10 years' standing.

The chairman of the panel shall be appointed on the recommendation of the chairman or president of the relevant law society, bar council or faculty of advocates.

In order that the appeal will be independent of the Council, no Council member or alternate may be a member of the panel. The legal chairman cannot be an HPC legal assessor, a Council or committee member or a solicitor, barrister or advocate who acts for the Council in any other capacity.

The appeal panel will determine its own procedures and the hearing will normally be conducted within the spirit of the rules for registration appeal hearings. The panel may decide either to allow the appeal or uphold the Council's decision

~~Updated at 29 March 2007 Council Meeting~~

Appendix A

The Seven Principles of Public Life *

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

* as set out by the Committee on Standards in Public Life (www.public-standards.gov.uk)

Appendix B

Complaints against Council Members

Introduction

1. This procedure deals with the investigation of complaints made against Council members which arise in that capacity, including complaints made against Council members by HPC staff.
2. Complaints against members by HPC staff should be made to the Chief Executive. All other complaints against members should be made to the Secretary of the Council.
3. All complaints must be made in writing and will be referred to the President. If, in the opinion of the President, more detail is needed in order for the complaint to be considered, the President will ask the complainant to provide further details.
4. The President will determine conclusively whether a complaint is within the scope of this procedure. If the President determines that a complaint is not within its scope or is trivial or vexatious, the President will inform the complainant of that decision in writing, and the reasons for it, and no further action will be taken in respect of that complaint.
5. Where the President is unable to act or is the subject of a complaint, any reference in this procedure to the President shall be taken to be a reference to the Chair of the Conduct and Competence Committee.

Conciliation

6. If the President determines that a complaint is within the scope of this procedure, he or she may suggest that the complainant and the member seek to resolve the matter by conciliation and, if they agree, the President, with the consent of the parties, will appoint a conciliator.
7. If the complaint is resolved by conciliation, no further action shall be taken by the President in respect of the complaint.
8. If conciliation fails to reach a satisfactory outcome, any admissions or statements made during the course of the process will not be admissible in any subsequent investigation or consideration of the complaint.
9. In any case where:
 - A. the President considers that the complaint is unsuitable for resolution by conciliation;
 - B. a party does not agree to take part in conciliation; or
 - C. conciliation fails to resolve the complaint;

the President will nominate an Independent Reviewer to investigate the complaint.

Investigation

10. The President will nominate a person (the **Independent Reviewer**) to investigate the complaint and report on the matter to the Council as to whether:
 - A. on the balance of probabilities, the allegations contained in the complaint are factually correct; and
 - B. on the basis of those facts, the member has breached the Code of Conduct for Council Members.
11. Where the Independent Reviewer concludes that a breach of the Code has occurred, he or she may also recommend to the Council the action which it should take against the member concerned in respect of that breach.
12. Subject to paragraph 13, the Independent Reviewer will determine the procedure to be followed in conducting the investigation, including the lines of inquiry to be pursued, the persons from whom evidence is to be sought and the form in which that evidence is to be given.
13. The Independent Reviewer shall:
 - A. send a copy of the complaint to the member concerned and invite him or her to submit a written response within a reasonable time (which shall in any event be not less than 14 days);
 - B. send a copy of any response from the member concerned to the complainant, and provide him or her with a reasonable time (which shall in any event be not less than 14 days) in which to comment on it.
14. The Independent Reviewer may be provided with administrative support by HPC and may obtain legal advice from the solicitor to the Council but, if the Independent Reviewer wishes to obtain independent administrative support or legal advice, the Council shall meet the reasonable costs incurred by the Independent Reviewer in doing so.

Report

15. Once the investigation has concluded, the Independent Reviewer shall prepare a report (the **Report**) setting out the findings of the investigation, the conclusions reached, any recommendation made in accordance with paragraph 18 and the reasons for them.
16. The Report shall also include all of the documents considered by the Independent Reviewer (other than any legal advice given to the Independent Reviewer or any other privileged communication).

17. The Report shall be submitted to the President and, at the same time, a copy shall be sent to the complainant and the member concerned.
18. If the Independent Reviewer concludes that there has been a breach of the Code, the Report may include one or more of the following recommendations:
- A. that no action be taken;
 - B. that the member be admonished by the Council;
 - C. that the member be suspended for a specified period (of up to three months);
 - D. that the member be removed from the Council;
 - E. that a report be submitted to the police, another regulatory or law enforcement agency or to a prosecuting authority.

Council Procedure

The President shall convene a meeting of the Council, to consider the report.

The Report shall be considered as public business but, at the discretion of the President, the Report may be taken as private business where:

- A. the Independent Reviewer has dismissed the complaint;
- B. the complaint concerns the health of any person;
- C. the complaint concerns confidential information; or
- D. the Independent Reviewer has recommended that the police or a regulatory, law enforcement or prosecuting body be informed of the matter;

and, in case of D, the President may determine that the Council shall not make public any information relating to the matter until the conclusion of any action by the police or other body concerned.

Appendix C

Conflicts of Interest

Introduction

It is central to the proper conduct of business that the Council should act and be perceived to act impartially and that its members should not be improperly influenced in their role by social, professional, business or other relationships.

If members are participating in Council business where they might have, or be seen to have, an interest in the outcome or any interest which could otherwise prejudice their decision, that interest should be declared.

If a member has a serious (prejudicial) conflict of interest in an agenda item, they should advise the meeting of that conflict, so that it can be recorded in the minutes and remove themselves from discussion or even in certain circumstances from the room

Register of Members' Interests

In accordance with the Council's Standing Orders, HPC maintains a register of Member's Interests and members are required to declare all relevant and material interests.

For the avoidance of doubt, interests which should be regarded as relevant and material include:

- directorships, including non-executive directorships held in private companies or PLCs (with the exception of dormant companies);
- ownership, part-ownership or directorship of private companies, business or consultancies;
- majority, controlling or otherwise significant shareholdings in any business;
- a position of authority in a charity or voluntary organisation in the field of health and social care;
- any connection with a professional body, voluntary or other organisation in the field of health and social care;
- to the extent not covered above, any connections with an entity considering entering into or having entered into a financial or other commercial arrangement with HPC.

Disclosure at meetings

The agenda for every meeting of the Council will include as an item of business the disclosure of members' interests. At the time that item is reached, a member must disclose the existence and nature of any personal or prejudicial interest he or she may have in any business before that meeting.

If the existence of such an interest is not apparent to a member at that time but becomes apparent during the course of the meeting, he or she must disclose it as soon as it becomes apparent.

Personal Interests

A member is to be regarded as having a personal interest in any matter if it relates to any interest disclosed by the member in the Register of Members' Interests or if a decision upon the matter might reasonably be regarded as affecting to a greater extent than others, the well-being or financial position of that member, their partner or a relative, any person with whom the member has a business relationship, or:

- any employment or business carried on by such persons;
- any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
or
- any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5000.

Prejudicial Interest

A member with a personal interest in a matter also has a prejudicial interest in that matter if a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice the member's judgement of the public interest.

A member with a prejudicial interest in any matter must:

- withdraw from the meeting while the matter is being considered at that meeting and play no part in any decision or vote on the matter;
- not exercise any function of the Council in relation to that matter; and
- not seek to influence any decision about the matter.