

**Council**

**Public minutes of the 66<sup>th</sup> meeting of the Health Professions Council held as follows:-**

**Date:** Thursday 10 February 2011

**Time:** 10:30am

**Venue:** The Council Chamber, Health Professions Council, Park House, 184 Kennington Park Road, London SE11 4BU

**Present:**

Anna van der Gaag (Chair)

Mary Clark-Glass

Malcolm Cross

John Donaghy

Sheila Drayton

Julia Drown

John Harper

Richard Kennett

Jeff Lucas

Arun Midha

Penelope Renwick

Keith Ross

Deep Sagar

Annie Turner

Joy Tweed

Diane Waller

Neil Willis

**In attendance**

Gary Butler, Director of Finance

Guy Gaskins, Director of Information Technology

Abigail Gorringe, Director of Education

Louise Hart, Secretary to Council

Teresa Haskins, Director of HR

Kelly Johnson, Director of Fitness to Practise

Marva Kamaludin, Team Administrator, Education Department

Jacqueline Ladds, Director of Communications  
Steve Rayner, Secretary to Committees  
Greg Ross-Sampson, Director of Operations  
Marc Seale, Chief Executive and Registrar

**Item 1.11/1 Chair's welcome and introduction**

- 1.1 The Chair welcomed all members to the meeting. A warm welcome was extended to those in the public gallery who were attending as part of the Open Day for prospective members of Council.

**Item 2.11/2 Apologies for absence**

- 2.1 Apologies for absence were received from Morag MacKellar and Eileen Thornton.

**Item 3.11/3 Approval of agenda**

- 3.1 The Council approved the agenda..

**Item 4.11/4 Declaration of Members' Interests**

- 4.1 The Council noted that Julia Drown had updated her Register of Interests to reflect her membership as Chair of the Nursing and Midwifery Council's Audit Committee.

**Item 5.11/5 Minutes of the Council meeting of 9 December 2010 (report ref:-HPC1/11)**

- 5.1 It was agreed that the minutes of the 65th meeting of the Health Professions Council be confirmed as a correct record and signed by the Chair, subject to the correction of some typographical errors.

**Item 6.11/6 Matters arising (report ref:-HPC2/11)**

- 6.1 The Council noted the action list as agreed at the last meeting.

**Item 7.11/7 Chair's report (report ref:-HPC3/11)**

- 7.1 The Council received a paper from the Chair.
- 7.2 The Council noted that the Chair and Chief Executive had met with Tim Loughton, Minister for Children & Families on 12 January. The meeting

was productive and formed part of the relationship building process with the Department for Education.

- 7.3 With regards to the Joint Regulators PPI meeting held on 25 January, Council noted that some regulators had made a decision that their Council members would no longer support this group since they felt that the work of the group had reached its conclusion. HPC on the other hand remained committed to the work of the group and to that end, the Chair and Council members would continue to participate and ensure that the HPC continued to undertake joint initiatives on patient and public involvement.
- 7.4 The Council noted that the Chair and Chief Executive had now started their annual meetings with professional bodies.
- 7.5 The Council noted that a paper outlining feedback on the NCAS conference on “disruptive behaviour – tackling concerns about practitioner behaviour” would be submitted to the next meeting of Council.
- 7.6 The Council noted the report.

#### **Item 8.11/8 Chief Executive’s report (report ref:-HPC4/11)**

- 8.1 The Council received a paper from the Chief Executive.
- 8.2 The Council noted that the Chief Executive had met representatives from the Australian Health Practitioner Agency (AHPA). The six states in Australia had now aligned their legislation with the exception of those elements relating to Fitness to Practise which was carried out on a state by state basis. The AHPA was particularly interested in the establishment of voluntary registers.
- 8.3 The Council noted that the Chief Executive had been appointed to the European Commission Steering Group on the European professional card. The move is part of a European Commission consultation on the Professional Qualifications Directive, in which views are being sought on how to better integrate professionals working in the Single Market. The Chief Executive undertook to circulate the minutes of the last meeting once they were made available.
- 8.4 The Council noted that the Chair and Chief Executive had attended the CHRE symposium on 19-20 January. The two day meeting had been useful in gaining an understanding of the issues affecting the wider landscape of regulation as well as issues affecting healthcare regulators.
- 8.5 The Council noted that the Chief Executive had attended the Scotland Bill Committee meeting on 25 January to give evidence on the Bill relating to the devolution of the regulation of the Health Professionals.

8.6 During the course of discussion, the following points were made:-

- That the figures within the paper illustrated that the Fitness to Practise Department had reduced the median length of time for cases to be heard from 15 to 14 months and the Department should be congratulated on this achievement;
- That the figures on page 12 of the statistics showed a sharp rise in the number of grandparenting applications received between November and December of last year. Whilst it was noted that the grandparenting window for practitioner psychologists was still open, the reason for this sharp rise was unclear;
- That should a voluntary register be established for healthcare scientists, the approval of education programmes would need to be addressed. It was anticipated that the White Paper due to be published on 16 February 2011 would provide further clarity on the issues;
- With regard to page 20 of the paper, the Council noted that penetration testing would be carried out once the planned release to the website had been carried out which was anticipated to be in the course of the next few days;
- That the reason for the increase in actual expenditure versus planned budget of the Chief Executive's department as outlined in page 5 of the statistics was as a result of the phasing of the budget rather than a large overspend;
- That staff turnover was currently running at about 20% per annum. The Council noted that exit interviews are offered to all employees leaving the organisation, the results of which are considered by the Finance and Resources Committee;
- That it was pleasing to note the number of requests for public awareness packs as detailed on page seven of the paper. However, the Council needed to continue to raise awareness;
- With regards to the number of HPC partner resignations in December 2010, feedback from some of the partners suggested that they were not satisfied with the new reappointments process, and had therefore resigned;
- Concern was expressed that the language testing requirement within the HPC's standards was at odds with the Professional Qualifications Directive. Views were being sought on how to better integrate professionals working in the Single Market. The Council were given assurances that those representatives on the European Commission Steering Group that were involved in

healthcare regulation continued to emphasise the overarching requirement to ensure the protection of the public;

- In response to a question relating to the timeframe for extending independent prescribing rights to physiotherapists and podiatrists, the Council noted that the Department of Health would need to carry out a consultation on the issues. It was expected that a submission would be made to the Minister in the next financial year setting out the proposals for consultation;
- The Council noted that the Executive had submitted the annual performance review to the CHRE and their assessment would be considered by the Council in due course.

8.7 The Council noted the report.

## Strategy and Policy

### **Item 9.11/9 Health and Social Care Bill (report ref:-HPC5/11)**

- 9.1 The Council received a paper for discussion/approval from the Executive.
- 9.2 The Council noted that the Bill had received its second reading on 31<sup>st</sup> January and had now entered the Committee stage. It was anticipated that the Bill would receive Royal Assent in the autumn of this year, with the transfer of the Register from the GSCC to the HPC taking place in April 2012.
- 9.3 The Council noted that all operational processes relating to the transfer of the Register were in train.
- 9.4 The Council noted that the Bill contained a proposal to give HPC the powers to establish voluntary registers for unregulated professions or related professions, including students seeking to enter a regulated or unregulated or related occupation.
- 9.5 The Council noted that at this stage, the Executive needed an in principle decision on the establishment of voluntary registers. The more operational decisions relating to issues such as CPD and grandparenting would follow.
- 9.6 During the course of discussion, the following points were made:-
- Some miscellaneous amendments would need to be made to previous legislation, for example, to remove references to “healthcare professionals” and replace with the term “registrant.”
  - Clarification was sought on the clause referring to registers remaining voluntary even if an ‘enactment’ made it compulsory

for a person to be on a particular register in order to carry out work or practice of a particular kind but only for a specific purpose. The Council noted that the White Paper, due to be published on 16 February, would provide clarification on these issues;

- In order to set up a voluntary register, an impact assessment would need to be carried out to establish the financial viability and the evidence base;
- The new name for the Health Professions Order 2001 outlined in the Bill - the 'Health and Social Work Professions Order 2001' was anomalous with the proposed new name of the HPC, namely the Health and Care Professions Council;
- It was important to establish the various models of regulation including the processes and standards that underpin each model. That way, an assessment could be made as to the appropriate model for an aspirant group;
- Various models of regulation were established in Northern Ireland, Scotland and Wales and it would be worthwhile to assess how these were working and learn from good practise;
- It was important to understand our role and remit in establishing voluntary registers i.e. should we actively seek out groups to establish a voluntary register for and, in all cases, it was essential to establish clear lines of accountability;
- HPC needed to ensure that a considered view was taken before undertaking to establish voluntary registers since it may destabilise the organisation were it to expand rapidly in a short space of time;
- The HPC needed to be clear of the new role of the CHRE (to be called the Professional Standards Authority for Health and Social Care) and how that dovetailed with the new powers to be conferred on HPC relating to voluntary registers;
- Public protection was better served by statutory regulation since the risk with any voluntary register lies with those individuals that decide not to be on the register;
- The HPC should continue to pursue statutory regulation for those aspirant groups where that recommendation had already been made to government;
- HPC should also explore the model whereby voluntary registers are set up as a “stepping stone” to full statutory regulation.

9.7 The Council were then asked to consider the bullet points set out on pages 2-3 of the cover paper:-

- **Should certain groups be recommended for statutory regulation?**

The Council agreed.

- **In principle, should voluntary registers be established by the HPC?**

There was discussion on this issue since some members felt that caveats were required to ensure that the principle of public protection was upheld within the 'in principle' decision. Some members felt that whilst a reasoned and cautious approach needed to be adopted, a positive message needed to be conveyed by HPC on this issue.

Various amendments to the statement were considered and Council agreed that **"In principle, the establishment of voluntary registers should be actively pursued by the HPC provided they meet the needs of public protection."**

- **How will the HPC decide in what order new professions or occupations should be regulated?**
- **What standards will be used?**
- **What process will be used?**
- **What will be the associated costs of these initiatives?**

The Council agreed that the Executive should be tasked with taking these points forward, taking into account the discussion arising from the strategy day held on 9 February together with the comments made today. However, the Council requested these points be addressed in the following order:-

- **What standards will be used?**
- **What process will be used?**
- **How will the HPC decide in what order new professions or occupations should be regulated?**
- **What will be the associated costs of these initiatives?**

9.8 The Council agreed:-

- (i) to instruct the Executive to develop a draft work plan to address those issues set out under 9.7 and raised during the course of discussion at the Strategy day held on 9 February 2011. The first stage of this work is to be considered at the next meeting of Council on 31 March 2011; and

- (ii) to instruct the Executive to commence the process to resolve the issues concerning the voluntary registration of students.

**Item 10.11/10 Transfer of regulatory functions from General Social Care Council to HPC (report ref:- HPC6/11)**

- 10.1 In accordance with the decision of Council to be kept informed of ongoing work relating to the transfer of regulatory functions from the GSCC to the HPC, an item was on the agenda for a verbal update to be provided.
- 10.2 The Council were in agreement that this item had already been covered during the course of discussion on item 9.

**Item 11.11/11 Application for the regulation of sports therapists by the Society of Sports Therapists (report ref:- HPC7/11)**

- 11.1 The Council received a paper for discussion/approval from the Executive.
- 11.2 The Council noted that any decision to recommend statutory regulation was based on the new professions process in place and the current legislation.
- 11.3 The Council noted their previous decision that three issues needed to be resolved before sports therapists would be recommended for regulation.
- 11.4 A suggestion was made that the work on voluntary registers be carried out before making a decision on this application. However, there was strong support amongst the Council to recommend this group for statutory regulation, particularly since the professional body had resolved the issues as requested.
- 11.5 The Council noted that sports physiotherapists had not objected to this application.
- 11.6 The Council agreed:-
  - (i) the assessment of the Executive that the three issues identified in the letter to the Secretary of State for Health (dated 22 May 2006) had been sufficiently addressed; and
  - (ii) to make a formal recommendation to the Secretary of State for Health and to Scottish Ministers for the regulation of sports therapists under Article 3 (17) (a) of the Health Professions Order 2001.



**Item 12.11/12 Appointment to the Audit Committee (report ref:- HPC8/11)**

- 12.1 The Council received a paper for discussion/approval from the Executive.
- 12.2 The Council agreed to ratify the decision of the Chair to appoint Morag MacKellar to the Audit Committee until July 2011.

**Item 13.11/13 Minutes of the Finance and Resources Committee held on 22 November 2010 (report ref:- HPC9/11)**

- 13.1 The Council received a paper for discussion/approval from the Executive.
- 13.2 The Council approved the recommendations therein.

**Item 14.11/14 Minutes of the Audit Committee held on 25 November 2010 (report ref:- HPC10/11)**

- 14.1 The Council received a paper for discussion/approval from the Executive.
- 14.2 The Council approved the recommendations therein.

The Council noted the following papers:

**Item 15.11/15 Professional Indemnity Insurance (report ref:-HPC11/11)**

**Item 16.11/16 Council meeting dates 2011-2012 (report ref:-HPC 12/11)**

**Item 17.11/17 Reports from council representatives at external meetings (report ref:-HPC 13/11)**

**Item 18.11/18 Any other business**

- 18 There were no additional items for consideration this day.

**Item 19.11/19 Date and time of next meeting**

- 19.1 The Council agreed that a Strategy session should be scheduled for the next meeting of the Council in order to consider the implications of the White paper due to be published on 16 February 2011. Ordinarily, the Council meeting time would not be changed. However, given the strategic importance of the White Paper, it was agreed that the strategy session should be held first with Council being moved to the afternoon.

Therefore, the Strategy session would start at 10:30am on Thursday 31 March 2011 followed by a Council meeting at 2pm.

### **Item 20.11/20 Resolution**

The Council agreed to adopt the following resolution:-

“The Council hereby resolves that the remainder of the meeting shall be held in private, because the matters being discussed relate to the following;

- (i) information relating to a registrant, former registrant or application for registration;
- (ii) information relating to an employee or office holder, former employee or applicant for any post or office;
- (iii) 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;
- (iv) negotiations or consultation concerning labour relations between the Council and its employees;
- (v) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (vi) action being taken to prevent or detect crime to prosecute offenders;
- (vii) the source of information given to the Council in confidence; or
- (viii) any other matter which, in the opinion of the Chair, is confidential or the public disclosure of which would prejudice the effective discharge of the Council’s functions.

<b>Item</b>	<b>Reason for Exclusion</b>
21	ii, iii, iv, viii
22	-
23	ii, iv
24	v
25	iii
26	iii, iv, v
27	iii, iv, viii

### **Summary of those matters considered whilst the public were excluded**

#### **Item 21.11/21 Minutes of the Private part of the Council meeting held on 9 December 2010 (report ref:-HPC14/11)**

- 21.1 The Council considered and approved the minutes of the private part of the Council meeting held on 9 December 2010.

**Item 22.11/22 Matters arising**

- 33.1 The Council noted that there were no matters arising from the private part of the Council minutes of 9 December 2010

**Item 23.11/23 Transfer of regulatory functions from General Social Care Council to HPC (report ref:-HPC15/11)**

- 23.1 The Council received a verbal update from the Chief Executive relating to the transfer of the regulatory functions form the General Social Care Council to HPC.

**Item 24.11/24 Judicial Review (report ref:-HPC16/11)**

- 24.1 The Council received a report on the progress of a judicial review.

**Item 25.11/25 Investment Policy (report ref:-HPC17/11)**

- 25.1 The Council approved the policy on how HPC should manage its investment portfolio.

**Item 26.11/26 Minutes of the private part of the Finance and Resources Committee held on 22 November 2010 (report ref:-HPC18/11)**

- 26.1 The Council considered the minutes of the private part of the Finance and Resources Committee held on 22 November 2010 and agreed the recommendations therein, subject to a point of clarification to be considered by the Finance and Resources Committee at their next meeting.

**Item 27.11/27 Minutes of the private part of the Audit Committee held on 25 November 2010 (report ref:-HPC19/11)**

- 27.1 The Council considered the minutes of the private part of the Audit Committee held on 25 November 2010 and agreed the recommendations therein.

**Item 28.11/28 Any other business for consideration in private**

- 28.1 There were no items for consideration in private.

Chair: .....

Date: .....

Unconfirmed