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<b>Council</b>
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**Minutes of the 85<sup>th</sup> meeting of the Council meeting held as follows:-**

**Date:** Tuesday 17 September 2013

**Time:** 10:30 am

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

**Present:** Anna van der Gaag (Chair)  
Pradeep Agrawal  
Jennifer Beaumont  
Frank Burdett  
Mary Clark-Glass  
John Donaghy  
Sheila Drayton  
Julia Drown  
Richard Kennett  
Jeff Lucas  
Morag MacKellar  
Arun Midha  
Penelope Renwick  
Keith Ross  
Eileen Thornton  
Joy Tweed  
Diane Waller

**In attendance:**

Alan Carr, Interim Director of Finance  
Liz Craig, PA to the Director of Education  
Roy Dunn, Head of Business Process Improvement  
Brendon Edmonds, Acting Director of Education  
Selma Elgaziari, Policy Officer  
Claire Gascoigne, Secretary to Council  
Michael Guthrie, Director of Policy and Standards  
Teresa Haskins, Director of HR  
Kelly Johnson, Director of Fitness to Practise  
Jacqueline Ladds, Director of Communications  
Greg Ross-Sampson, Director of Operations  
Marc Seale, Chief Executive and Registrar

**Item 1.13/110 Chair's welcome and introduction**

1.1 The Chair welcomed all members and observers to the meeting.

**Item 2.13/111 Apologies for absence**

2.1 There were no apologies for absence.

**Item 3.13/112 Approval of agenda**

3.1 The Council approved the agenda, subject to the consideration of the addendum in relation to the Code of Corporate Governance (HCPC98/13). It was agreed that the Fitness to Practise Management Information Pack (HCPC104/13), would be discussed following the Communications Report (HCPC94/13).

**Item 4.13/113 Declaration of Members' Interests**

4.1 Keith Ross declared an interest since his wife is a Council member of the PSA.

**Item 5.13/114 Minutes of the Council meeting of 4 July 2013 (report ref:- HCPC85/13)**

5.1 The Council considered the minutes of the 84<sup>th</sup> meeting of the Health and Care Professions Council.

5.2 The Council agreed the minutes.

**Item 6.13/115 Chair's report (report ref:- HCPC87/13)**

6.1 The Council received a report from the Chair.

6.2 During discussion, the following points were made:-

- the Evidence Alliance for Useful Evidence event on 9 July gathered representatives from a broad spectrum of regulators and professional bodies and focused on the benefits of applying evidence to policy making. The event was well received, with keen interest in how the HCPC uses evidence;
- it was noted that the meeting with Anna Dixon and Alistair Rose from the Department of Health on 28 August was an opportunity to discuss research initiatives. The Department was encouraging about the research work undertaken by the HCPC;
- the event 'Regulation Culture and Kindness : Mutually Exclusive?' on 9 September was an opportunity to review the CQC's new proposals for its inspection regime.

- in response to a question it was noted that Ofsted were not at the two events highlighted. It was agreed that their inclusion was important.

6.3 The Council noted the report.

**Item 7.13/116 Chief Executive's report (report ref:- HCPC88/13)**

7.1 The Council received a paper from the Executive.

7.2 During discussion, the following points were made:-

- the Education systems build project continues to progress well. A detailed business case will be presented to the Executive to gain authorisation to go into the implementation phase of the project;
- interviews are scheduled to take place in early December 2013 for the tender for the provision of legal services;
- the PSA audit of the initial stages of HCPC's fitness to practise process has now concluded. The final report is likely to be published in the late autumn;
- the Executive has provided information to the PSA as a result of work commissioned by the Department of Health. The first paper was looking at what steps the regulators could take in encouraging registrants to be more 'candid' about mistakes which led or may have led to harm to patients;
- the second paper was looking at the regulators' international assessment processes for applicants who do not qualify for EEA mutual recognition rights. The Executive provided statistics about applicants and registrants and answered a series of questions about processes;
- the Chief Executive commissioned HCPC's Internal Auditors Mazars to review the two key operational and financial models used to forecast revenue derived from registrants and prospective registrants. This exercise was successful and the results were shared with the Finance and Resources Committee on 10 September 2013; and
- a Near Miss Report will be provided to the Audit Committee at its meeting on 26 September 2013 to inform it of the HCPC's investigation into the matter of incorrect methodology being used to forecast registrant fee income.

7.3 The Council discussed the 186 Kennington Park Road project. It was noted that progress continues in conjunction with architects and cost

consultants to agree on a scheme in relation to any proposed redevelopment of the property. The protected status of the front façade of the building is still under discussion.. A project report, including a risk register, will be presented to the Finance and Resources Committee.

7.4 The Council noted the report.

## Strategy and Policy

### **Item 8.13/117 Professional Standards Authority for Health and Social Care performance review 2012 – 2013 (report ref:- HCPC89/13)**

- 8.1 The Council received a paper for discussion/approval from the Executive.
- 8.2 The Council noted that, in June 2013, the PSA published its 2012 – 2013 performance review of the regulatory bodies, including its performance assessment of the HCPC. The paper discussed the outcomes of the 2012 – 2013 performance review, provided a summary and discussion of the PSA's assessment of the HCPC's performance and highlighted other areas of interest.
- 8.3 The Council noted that fitness to practise continued to be a focus for the PSA performance review. In keeping with previous papers considered by Council, the performance review content around fitness to practise was set out in a separate appendix to the paper.
- 8.4 The Council noted that the HCPC had received a positive performance review report for 2012-13. The PSA had noted that the HCPC had 'continued to operate effective systems and processes in all areas of its initial stages FTP process. In addition it deemed this 'noteworthy given the recent challenges faced by the HCPC, including the transfer of the regulation of social workers in England on 1 August 2012 and the expansion of its scope'
- 8.5 In discussion, the following points were made:-
- the Council was pleased with the results of the review, however it emphasised the need to not become complacent and that feedback is useful in improving performance;
  - the Council discussed the value of the process, given that it had been in place for a number of years;
  - the PSA identified that it is difficult to draw comparisons between the regulators based on the data it gathered. Members of the Executive and Council have previously discussed the issues around comparing this data with the PSA; and

- It was agreed that benchmarking and an exploration of shared issues would be beneficial to all regulators. It was noted that cross regulatory groups have been established post Francis and that their effectiveness will be tested in the future.

8.6 The Council noted the report.

**Item 9.13/118 Fitness to Practise Publication Policy (report ref:- HCPC90/13)**

- 9.1 The Council received a paper for discussion/approval from the Executive.
- 9.2 The Council noted that the HCPC has a statutory duty under Article 22 of the Order to publish particulars of certain orders and decisions made by Practice Committee Panels. That Article also provides the discretion to disclose any information about a person's fitness to practise where it is considered disclosure is in the public interest. The HCPC is also subject to the Data Protection Act 1998 and the Freedom of Information Act 2000 which impose specific duties in respect of information disclosure.
- 9.3 During discussion the following points were made:-
- the Publication Policy sits alongside the Document Retention Policy and sets out the proposed policy in relation to the publication of fitness to practise information;
  - the publication of fitness to practise decisions provides valuable information about the standards expected of registrants, assists service users to make informed choices and helps to maintain public confidence in the professions the HCPC regulates;
  - the HCPC must take account of the rights of registrants and others involved in proceedings and the risk of harm that may arise from the disclosure or non-disclosure of information; and
  - the policy forms part of a broader piece of work, which aims at improving the fitness to practise experience of all parties involved in the process. The new Head of FtP Service Improvement will take this work forward.
- 9.4 It was suggested that the last paragraph of the introduction section of the policy was too focused on the removal of data and should be amended to focus on the proportionality of retention. The Council agreed that the level of detail published and the length of time it remains publicly available must be proportionate, striking a fair balance between the public interest objectives and fairness to all participants involved in the process.

- 9.5 The Council approved the Fitness to Practise Publication Policy, subject to the amendment set out under paragraph 9.4.

**Item 10.13/119 Outcomes of guidance of consultation on guidance on professional indemnity (report ref:- HCPC91/13)**

- 10.1 The Council received a paper for discussion/approval from the Executive.
- 10.2 The Council noted that a consultation was held between 10 June 2013 and 2 August 2013 on guidance for registrants, as part of the introduction of a statutory requirement to have in place a professional indemnity arrangement as a condition of registration. This requirement will not apply to social workers in England.
- 10.3 The Council noted that a number of changes have been made to the guidance document as a result of the consultation. They include amendments to ensure consistency with the relevant legislation; to better signpost content in the guidance for different groups of registrants and applicants; and to improve readability overall.
- 10.4 The Council noted that the paper was recommended to Council for approval by the Education and Training Committee at its meeting on 12 September 2013.
- 10.5 During discussion the following points were made:-
- the Indemnity Order will not amend the statutory rules as previously expected. These amendments will now need to be taken forward separately. It is expected that the Indemnity Order will be laid in parliament in November 2013, and implemented in February 2014. The rules amendment will take place following this;
  - therefore, agenda item 'Consultation on Rules for Professional Indemnity' HCPC92/13 will not be considered by the Council at this meeting;
  - the guidance will be published when the legislation is in place. Registrants will be informed of the reasons for the delay in implementation; and
  - Council will be updated on its progress within the Policy and Standards update.
- 10.6 The Council discussed the limitations of indemnity cover for fitness to practise misconduct allegations. It was noted that this was not the purpose of the legislation, however it was agreed that the issue would

be highlighted within the accompanying FAQs document. In addition it was agreed that the benefits to social workers of obtaining indemnity cover would be added to the FAQ document.

**ACTION – Director of Policy and Standards** to include the points highlighted in 10.6 in the indemnity insurance FAQs.

10.7 The Council approved the text of the consultation responses document for publication on the HCPC website, and the text of the draft guidance.

**Item 11.13/120 Consultation on Rules for Professional Indemnity (report ref:- HCPC92/13)**

11.1 The Council noted that this item had been removed from the agenda as noted in paragraph 10.5.

**Item 12.13/121 Use of the HCPC Retention policy and destruction of duplicate paper versions of information (report ref:-HCPC93/13)**

12.1 The Council received a paper for discussion/approval from the Executive.

12.2 The Council noted that within HCPC there are specific retention policies for the Fitness to Practise and Human Resources department with an overall policy in place for the remainder of the organisation. These policies provide for the retention (or destruction) of content and information and make no specific requirements regarding whether that information is held in hard or soft copy form.

12.3 The Council noted the proposal that hard copy documentation is destroyed in accordance with the relevant retention policies. In addition, wherever possible, HCPC will store information electronically rather than as hardcopy, other than where there is a historic value to retaining the original paper copy.

12.4 The Council agreed that the HCPC will adopt a policy of preferred electronic information retention, destroying duplicate paper versions where they are available. Existing duplicate paper copies will be progressively destroyed.

**Item 13.13/122 Communications Report (report ref:- HCPC94/13)**

13.1 The Council received an update report from the Executive for discussion.

13.2 The Council noted that the report set out the work of the Communications Department since the last meeting of Council. It

included statistical information and highlights activities undertaken in July and August across the range of communications channels.

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

- the media team has been promoting a number of HCPC specific activities to professional journals in this period. This has included an article and press release on Council recruitment to support the advertising campaign and selling in the press release on the professional indemnity consultation;
- following a request at the last meeting of the Council a Google AdWords Report formed an appendix to the paper. Statistics show that 42% more users are reaching the HCPC website over the last quarter compared to six months ago;
- the 'Working with stakeholders' pages on the website have been updated to better reflect the range of stakeholders the organisation works with, including the public, service users, employers, government and other regulators;
- planning is underway for the HCPC first ever 'Meet the HCPC' hybrid event, which will take place in Perth. The event will be face-to-face or 'live' participants as well as a 'virtual' online audience;
- a programme of Twitter-based 'tweet chats' is currently under development; and
- in response to a question, it was noted that registrants are not required to display their registration with the HCPC on their websites. The HCPC has a regular programme of communications with employers, the message of promoting registration could be emphasised.

13.4 The Council discussed how the effectiveness of the Waiting room distribution campaign could be measured. This campaign included distributing 172,000 public information leaflets to 5,996 multi-GP surgeries nationwide, 8,000 bi-lingual leaflets to Wales sites and a further 20,000 to 1,000 UK-wide independent pharmacies. It was noted that the distribution partner used is able to provide 'pick-up' rates for the leaflets. It was agreed that a percentage GP coverage indication would be useful.

13.5 The Council noted the update report.

**Item 14.13/123 Fitness to Practise Management Information Pack (report ref:- HCPC104/13)**

- 14.1 The Council received an update report from the Executive for discussion.
- 14.2 The Council noted that the report provides statistical information and commentary about the work of the Fitness to Practise Department. An appendix sets out the purpose and meaning of each report.
- 14.3 During the course of discussion, the following points were made:-
- the Fitness to Practise Management Information Pack is used by the FTP department to review and monitor the work of the department and is considered by the Executive Management Team on a monthly basis. It is proposed that, should the Council be restructured and the Fitness to Practise Committee disbanded, this report will be presented to Council;
  - the report structure aims to allow the Council to track the progress of the Department. Reforecasts of case predictions and financial status take place on a three, six and nine month interval basis; and
  - a version of the report is provided to the PSA for audit purposes. FTP will also meet with the CQC in September to discuss the data the Department holds and what can be shared.
- 14.4 The Council discussed the intended audience of the report. The Council agreed that the report contained detailed management information, which was not appropriate for consideration at every Council meeting. It was felt that a summary on key performance indicators would be beneficial. However it was agreed that it was important that the reconstituted Council received the entirety of the report to decide how it wished to receive Fitness to Practise information.
- 14.5 The Council noted the update report.

## Corporate Governance

### **Item 15.13/124 Restructure of Council – Response to the Department of Health’s Consultation paper (report ref:- HCPC95/13)**

- 15.1 The Council received a paper for discussion/approval from the Executive.
- 15.2 The Council noted that on 18 July 2013, the Department of Health issued a consultation paper entitled ‘Health and Care Professions Council (Constitution) (Amendment) Order. A paper for consultation.’ The consultation runs for 12 weeks, closing on 9 October 2013 and is seeking views on reducing the size of the HCPC’s governing council from 20 to 12.

15.3 During discussion the following points were made:-

- with regards to question one, the second paragraph of the response should be amended to remove 'however';
- the response to question two should be less definitive. The assertion that 'this will ensure that we can satisfy the requirements' should be qualified to 'this will make it more likely that we can satisfy the requirements'; and
- the Council noted an opinion that the evidence basis for the reduction in the size of the Council was not definitive and had not been shared to enable independent assessment of the conclusions drawn from it.

15.4 The Council agreed the response to the consultation subject to the amendment set out under paragraph 15.3.

**Item 16.13/124 Composition of the Audit Committee (report ref:- HCPC96/13)**

16.1 The Council received a paper for discussion/approval from the Executive.

16.2 The Council has previously noted that a reduction in its size would have an impact on the governance structures that support Council.

16.3 During discussion the following points were made:-

- it is proposed that the Chair of the Audit Committee is not required to be an independent member as this would not be proportionate and best suited to the HCPC's particular circumstances. The required element of independence could be achieved through recruiting a member of the Audit Committee from outside of the Council;
- it is proposed that, with effect from when the restructured Council takes office, the Audit Committee shall comprise two members appointed by the Council and one independent member. At least one member shall have recent, significant and relevant financial and audit experience. It is possible that the independent member would provide this experience, and in practice this is the norm;
- the independent member would be a full member of the Committee and would be appointed by the Committee. It was agreed that this is an important corporate governance role and

that previous iterations of the HCPC governance structure have required an independent member; and

- It was agreed that the number of meetings should read 'at least' three times a year, and that if required more meetings could be called.

16.4 The Council agreed:-

- With effect from the conclusion of the meeting of the Council in February 2014 the Audit Committee shall comprise three members appointed by the Council, of which:
  - (a) two shall be Council members (one of whom shall be appointed by the Council as the Chair of the Committee); and
  - (b) one shall be an independent member;
- at least one member shall have recent, significant and relevant financial and audit experience;
- that the Executive be requested to undertake an open recruitment exercise to identify a suitable person for appointment as the independent member of the Committee and make a recommendation for appointment to a future meeting of the Council (such exercise to be conducted in a manner which is consistent with previous exercises for the appointment of non-Council members to the Education and Training Committee);
- no person may be appointed as a member of both the Audit Committee and the Remuneration Committee;
- that the Council members of the Committee be appointed at the meeting of the Council in February 2014; and
- the Audit Committee shall meet at least 3 times a year.

**Item 17.13/125 Restructure of HCPC Committees (report ref:- HCPC97/13)**

- 17.1 The Council received a paper for discussion/approval from the Executive.
- 17.2 The Council noted that, as discussed as part of last February's Strategy day, any reduction in the size of Council would have an impact on the governance structures that support Council since the current structure, with a number of non-statutory Committees, would not be sustainable with only 12 members.
- 17.3 In discussion, the following points were made:-

- it is proposed that the Finance and Resources and Fitness to Practise Committees be disbanded and the Council receive those papers and updates which, under the existing structure, would be considered by the relevant Committee.;
- a separate Remuneration Committee will generally meet once per year in March to consider salaries of all employees;
- the Education and Training Committee will need to be retained since it is a statutory Committee. However, this would need to be reviewed to ensure that the composition was reflective of the smaller number of Council members under the new structure;
- it is proposed that Council meetings should be held over two days, starting at lunchtime on day one and finishing at lunchtime on day two. This would enable Council to look at those issues that would have been considered by committees on the afternoon of day one, followed by those more strategic 'Council-type' issues to be considered on the morning of day two; and
- it was noted that this structure would provide more opportunity to hold training and seminar sessions, however, all Council business will remain in public session.

17.3 The Council agreed the following:-

- with effect from when the restructured Council takes office, the Fitness to Practise and Finance and Resources Committees will be disbanded, with all business being considered by the Council;
- the Audit Committee and the Remuneration Committee will be retained; and
- the format of the Council meetings will follow that outlined in paragraph 17.3.

**Item 18.13/126 Code of Corporate Governance (report ref:- HCPC98/13)**

18.1 The Council received a paper for discussion/approval from the Executive.

18.2 The Council noted that once the Amendment Order is made, the Council will continue to exist as the same body corporate but with a reduced membership. There will be no transitional period or any other form of interregnum. Consequently, from the outset the smaller Council will need to have in place corporate governance arrangements which are fit for purpose, hence the need for the paper at this point in the Council's timetable.

18.3 During discussion the following points were made:-

- the Code of Corporate Governance has been revised to take account of the proposals contained in the Amendment Order and also to address those consequential changes which the Council has previously considered, notably the abolition of non-statutory committees whose function can be performed directly by a smaller Council;
- the opportunity has also been taken to make minor changes, such as revising specific references to legislation which has been amended and to turn the Code into a more coherent suite of documents;
- as the newly appointed Council may wish to consider its corporate governance arrangements in due course, the amendments which have been made are deliberately limited but should ensure that the Code is fit for purpose from 1 January 2014; and
- an addendum relating to the Remuneration Committee, which was tabled for this meeting, will be included in the code. It will also specify that no person may be appointed as a member of both the Audit Committee and the Remuneration Committee.

18.4 The Council discussed the terms of reference of the Audit Committee. It was noted that NAO guidance handbook requires that the Committee be termed the 'Audit and Risk Assurance Committee'. However the NAO handbook does not legally fit organisations like the HCPC, which is a non-executive body. It was agreed that Council had ownership of risk and the Audit Committee had an oversight role.

18.5 The Council resolved that;

- the Education and Training Committee (Constitution) Rules 2013 be made in the form of Attachment CCG5 and that the Chair and Chief Executive and Registrar be authorised to execute those Rules on behalf of the Council by affixing to them the common seal of the Council;
- CCG1 and CCG2 be adopted by the Council and apply from 1st January 2014;
- CCG3 and CCG6 - CCG11 be adopted by the Council;
- the Education and Training Committee be invited to adopt Attachment CCG4 (Education and Training Committee Scheme of Delegation); and

- subject to the foregoing decision of the Education and Training Committee in respect of CCG4, that Attachments CCG1 - CCG11 form the Code of Corporate Governance of the Health and Care Professions Council with effect from 1 January 2014.

**Item 19.13/127 Education and Training Committee appointments (report ref:- HCPC99/13)**

- 19.1 The Council received a paper for discussion/approval from the Executive.
- 19.2 The Council noted that whilst the Education and Training Committee will be retained due to its statutory nature, its composition is within the gift of Rules made by HCPC, not the Privy Council. This composition needs to be reviewed to ensure that it remains appropriate to a smaller Council under the new structure.
- 19.3 The Council noted that a number of non-Council Committee members were appointed in 2009 and their membership was renewed in October 2011 for a period of 2 years. This renewed membership is due to expire in October 2013.
- 19.4 The Council agreed that the membership of the non-Council Committee members listed under paragraph 6 of the report should be extended until such time as the restructured Council takes office.

**Item 20.13/128 Minutes of the Finance and Resources Committee held on 18 June 2013 (report ref:- HCPC 100/13)**

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

**Item 21.13/129 Minutes of the Audit Committee held on 25 June 2013 (report ref:- HCPC 101/13)**

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

**Item 22.13/130 Minutes of the Finance and Resources Committee held on 18 July 2013 (report ref:-HCPC 102/13)**

- 22.1 The Council received a paper for discussion/approval from the Executive.

22.2 The Council approved the recommendations therein.

### **Items to note**

The Council noted the following items:-

**Item 23.13/131 Customer Service Feedback – yearly review (report ref:- HCPC103/13)**

**Item 24.13/133 Council and Committee dates - 2014 (report ref:- HCPC105/13)**

### **Item 25.13/134 Any other business**

25.1 There were no further items for consideration.

### **Item 26.13/135 Date & time of next meeting:**

26.1 The next meeting of the Council would be held on Thursday 17 October 2013 at 13:00. This meeting will take place at the Slieve Donard Hotel, Newcastle, Northern Ireland.

### **Item 27.13/136 Resolution**

27.1 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;

- (a) information relating to a registrant, former registrant or application for registration;
- (b) information relating to an employee or office holder, former employee or applicant for any post or office;
- (c) 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;
- (d) negotiations or consultation concerning labour relations between the Council and its employees;
- (e) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (f) action being taken to prevent or detect crime to prosecute offenders;
- (g) the source of information given to the Council in confidence; or

- (h) 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.'

Item	Reason for Exclusion
28	C, H
29	H
30	B

**Item 28.13/136 Legal Services Tender (report ref:- HCPC106/13)**

- 28.1 The Council received a paper for discussion from the Executive.
- 28.2 The Council agreed that the Chair of Council shall report the outcome and decision of the procurement process at the Council meeting which follows the conclusion of that process.
- 28.3 The Council agreed that the Legal services provider selected by the Panel at the conclusion of the tender process shall be appointed on the terms agreed by the Panel.

**Item 29.13/137 Minutes of the private part of the Finance and Resources Committee held on 18 June 2013 (report ref:- HCPC107/13)**

- 29.1 The Council considered and approved the recommendations contained within the minutes of the private part of the Finance and Resources Committee held on 18 June 2013

**Item 30.13/138 Any other business**

- 30.1 The Council received an update relating to a Human Resources situation.

Chair: ...Anna van der Gaag

Date: ...17 October 2013