
Council

Minutes of the 102nd meeting of the Health and Care Professions Council as follows:-

Date: Wednesday 2 December 2015

Time: 2pm

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

Present: Elaine Buckley (Chair)
Stephen Cohen
Richard Kennett
Sonya Lam
Eileen Mullan
Joanna Mussen
Robert Templeton
Graham Towl
Joy Tweed
Nicola Wood
Stephen Wordsworth

In attendance:

John Barwick, Acting Director of Fitness to Practise (items 1-15)
Laura Coveney, Policy Officer (items 1-15)
Jonathan Dillon, Adjudications Manager (from item 8 (ii) to item 13)
Ciara O'Dwyer, Investigations Manager (from item 8(ii) to 15)
Guy Gaskins, Director of Information Technology (items 1-15)
Andy Gillies, Director of Finance (items 1-15)
Abigail Gorringe, Director of Education (items 8-15)
Michael Guthrie, Director of Policy and Standards (items 1-15)
Steve Hall, Facilities Manager
Jacqueline Ladds, Director of Communications (items 1-15)
Louise Lake, Director of Council and Committee Services
Sushila Pindoria, Bircham Dyson Bell (from item 10(i) onwards)
Nina Romain, Press Officer (items 1-9)

Greg Ross-Sampson, Director of Operations
Marc Seale, Chief Executive and Registrar

Public Agenda – Part 1

Item 1.15/234 Chair's welcome and introduction

- 1.1. The Chair welcomed Council members and those seated in the public gallery to the 102nd meeting of Council.

Item 2.15/235 Apologies for absence

- 2.1 There were no apologies for absence.

Item 3.15/236 Approval of Agenda

- 3.1 The Council approved the agenda.

Item 4.15/237 Declaration of Members' interests

- 4.1 Nicola Wood declared an interest as a non-executive Director of the Board of the Information Commissioner's Office.
- 4.2 In addition, all Council members declared an interest under item 8 (ii), the Expenses Policy.

Item 5.15/238 Minutes of the Council meeting of 15 October 2015

- 5.1 The Council considered the minutes of the 101st meeting of the Health and Care Professions Council.
- 5.2 The following suggestions were made:-
- Nicola Wood needed to be removed from the list of attendees;
 - It should be noted within the minutes that the PSA's report entitled: "Rethinking Regulation" was fully discussed as part of the Council's strategy day held on 12-13 October 2015;
 - Paragraph 7.3 did not accurately reflect the query raised which was much broader and not just about the obligation for students to tell someone if something goes wrong but, in addition, if they are 'out of their depth' or not comfortable doing something. The Executive undertook to amend the paragraph accordingly.
- 5.3 The Council agreed the minutes subject to the incorporation of the amendments detailed under paragraph 5.2.

Item 6.15/239 Chair's report

6.1 The Council received a report from the Chair.

6.2 During discussion, the following points were made:-

- The annual cycle of meetings being held with professional bodies continued to be positive and demonstrate collaborative working. It was an opportunity, amongst other things, to update them on the changes to tribunal arrangements which had been welcomed;
- The meeting with Lyn Romeo, Chief social worker for adults, was an opportunity to consider issues relating to the social work profession;
- The meeting with the British Association of Social Workers had been positive and they articulated their intention to fill the gap of the professional body;
- The meeting with Shona Robison MSP had been very engaging; she was very interested in regulation and engagement with those in more isolated parts of the country. The areas of discussion also included the challenges of podiatric surgery and the changes in the legislative framework which she supported. She had praised the fact that HCPC had held 'Meet the HCPC' events in both Stornoway and Fort William. She also responded positively to the suggestion of holding a CPD standards launch event in Scottish Parliament.

6.3 The Council noted the report.

Item 7.15/240 Chief Executive's report

7.1 The Council received a report from the Chief Executive.

7.2 During the discussion the following points were made:-

- A meeting had been held with the PSA on 18 November in relation to the new performance review process. We had offered to be the first regulator to be audited under the new regime and it was anticipated that this would take place in early 2016;
- The PSA were due to publish their report on the General Dental Council before Christmas. The Council would be notified and a paper would be submitted to a future meeting of Council to see whether there were any learning points for the HCPC;
- Under the comprehensive spending review, the Department of Health's budget had been cut by 25%. In addition, the announcement was made that the funding arrangements for students would be changing with bursaries being replaced by loans. As a result, caps on student

numbers would be lifted and so as the regulator, we needed to be sure that satisfactory arrangements were in place with regards to student placements;

- A meeting had been scheduled for Wednesday 9 December for all Chairs and Chief Executives of Health and Social Care Regulators to meet with Ben Gummer, Parliamentary Undersecretary of State for Care Quality. It was anticipated that an update on the Law Commission proposals would be presented;
- In response to a question about social workers working with children, the Council noted that consideration was being given by the Department of Education as to whether those social workers working with children should be required to undertake additional learning once they are on the Register. In response, we had asked for consideration to be given to whether any training would be compulsory, who would maintain the Register in relation to this additional learning and whether consideration had been given to the impact on supply of the profession should an additional qualification become compulsory;
- As a result of the change in funding arrangements for students resulting in the cap being lifted on cohort numbers, there was a large part of Health Education England's work in relation to commissioning which would no longer be required.

7.3 The Council noted the report.

Item 8i. 15/241 Finance Departmental Update

8i.1 The Council received a report from the Executive.

8i.2 The Council noted the main activities of the Finance Department since the September 2015 meeting. It included statistical information and highlighted key work undertaken.

8i.3 During discussion the following points were made:-

- The Council noted that a further £2.5M cash had now been placed on deposit for 6-7 months;
- The Council noted staffing arrangements in place in the Finance Department as a result of the recent resignation of two senior employees;
- With reference to the 6 month reforecasted budget, the Council noted that approval was being sought to spend more than the original agreed budget. However, we were expecting a higher level of income over the next 6 months and this figure exceeded the increase in forecasted

budget. The anticipated budget deficit for 2015/16 was therefore more favourable than previously anticipated;

- The Council noted that the increase in expenditure over the next six months included an increase in expenditure on learning and development within the organisation and the costs of sending a hard copy of the Standards of Conduct, Performance and Ethics to all registrants;
- With reference to the Grant Thornton audit of the financial planning model, the Council noted that they had concluded that this was satisfactory with some areas for improvement;
- The Audit Committee, at their meeting on 26 November, had highlighted the staffing of the department as a risk. The Council were keen to ensure that the role and package for the senior employees in the Department were thoroughly considered before advertising for the posts in the new year;
- The Council noted the increase in the capitalization threshold from £1k to £5k. This had had an adverse variance on the accounts although there was support for this change in approach;
- The Council noted that the PSA levy for 2015/16 had been agreed although Regulators had only been required to pay for 8 months of the year. A consultation was currently being undertaken by the PSA in relation to next year's levy, the results of which would then need to be consulted on by the Privy Council before any levels could be set. It was therefore difficult to budget for this since we were not expecting to know the amount of the levy until March 2016;
- Concern was expressed that as a result of the way in which the levy had been calculated, some regulators may be cross subsidising some of the poorer performing regulators since greater resource was required in terms of PSA involvement;
- With reference to a query about income 'being ahead of budget', the Council noted that it was always difficult to predict income from international applications. We therefore always took a conservative approach based on historical data.

8i.4 The Council agreed the Month 6 Forecast, and that departments' forecasts replace their original budgets as the new targets for spending in 2015-16.

Item 8ii. 15/242 Expenses Policies

8ii.1 The Council received a report from the Executive.

8ii.2 The Council noted the main changes to the expenses policies for employees, Council members and partners.

8ii.3 During the discussion the following points were made:-

- With reference to paragraph 14 of the employee expenses policy and the equivalent paragraphs in the Partners' and Council members' policies, it was noted that not all types of travel can be booked through the travel management company, and agreed that the wording should be amended accordingly;
- In response to a question about how we can ensure that business insurance is in place for mileage claims, the suggestion was made that a declaration could be made as part of a claim if not already done so. Council concurred with this suggestion;
- Concern was expressed that the determination of class of travel by air was determined by length of journey in terms of time yet this logic was not applied to travel by rail. In response the Council noted that this would be looked at when the policy was next reviewed;
- It was suggested that the policy be more explicit about how railcards can be used to book cheaper rail journeys. The Executive undertook to incorporate this into the policies.

8ii.4 The Council agreed the revised expenses policies, subject to the incorporation of the suggested amendments under paragraph 8ii.3, with effect from 1 January 2016.

Item 8iii. 15/243 Procurement Policy

8iii.1 The Council received a report from the Executive.

8iii.2 The Council noted the main change made to the Procurement Policy was to increase the value thresholds to levels more appropriate to the scale of HCPC's business. The proposed increase in the Chief Executive's sole authority to approve contracts to £100,000 is subject to a change in the Scheme of Delegation, point 7.4, to increase the Chief Executive's authority in the Scheme of Delegation from £50,000 to £100,000. The Council noted that the change to the Scheme of Delegation was later in the agenda. The changes were reviewed by our legal advisors and their comments incorporated.

8iii.3 During the discussion the following points were made:-

- Following the September meeting of the Audit Committee, legal advice had been sought on the role of the Chair as a signatory of contracts under the previous version of the procurement policy approved by Council in December 2013, and on the proposed new role of the Chair, under the proposed new procurement policy, in authorising the Chief Executive to enter contracts. Our legal advisors had confirmed that

both the previous version of the policy and the proposed new policy were valid delegations of authority by the Council;

- The Audit Committee had agreed that it was not necessary for the Chair to systematically report back on contracts that had been approved by the Chair for the Chief Executive to sign. It was felt that high value contracts would normally have been discussed by Council in advance through departmental and project reports and so they would have knowledge of the proposals;
- There was further discussion about the role and authority of the Chair in authorising the Chief Executive to enter contracts over £100,000, and the responsibility of the Council as a whole for those contracts. It was also noted that the Chair or Council could refer the approval of specific other contracts to Council, but that there were practical issues around requiring the Council as a whole to give prior approval to all contracts above a certain value;
- The Council, after consideration, agreed with the proposal in the new policy that contracts over £100,000 should be signed by the Chief Executive with the approval of the Chair of Council, and that prior approval by the Council as a whole was not required as a matter of course.

8iii.4 The Council approved the revised procurement policy.

Item 8iv. 15/244 Change in the bank mandate

8iv.1 The Council noted the paper in relation to the Change in the bank mandate.

Item 9.i. 15/245 Operations Departmental Update

9i.1 The Council received a report from the Executive.

9i.2 The Council noted the main activities of the Operations department.

9i.3 During the discussion the following points were made:-

- The Council noted the update in relation to the fit-out of 405 Kennington Road office accommodation. The Council noted the outstanding issue in relation to the IT cabling which was dependent upon a third party supplier;
- The Council noted the ongoing effort to ensure that all employees, partners and Council members had undertaken Information Security training;

- The Council noted the CPD profile assessment process and the proposed process using a 'portal' that would be introduced as part of the Registration Transformation Project;
- The Council noted that the current process for the assessment of CPD profiles allowed assessors to 'bounce ideas' around and it was hoped that the new process would allow the same;
- There was some discussion about whether those registrants that had submitted a CPD profile could be given more detailed feedback other than a 'pass' or 'fail' . It was noted that this was not something that the Executive would wish to pursue since the issue for us as the regulator was whether a registrant met the threshold standards not provide qualitative comments on a profile. It was agreed that expectations of those registrants submitting a profile needed to be managed and how this could be done could be looked at as part of the Registration Transformation Project;
- The Council noted those preparations being undertaken in order for the Registration Team to take over the work in the area of Registration Appeals.

9i.4 The Council noted the update.

Item 9ii. 15/246 European Professional Card – Fees

9ii.1 The Council received a report from the Executive.

9ii.2 The Council noted that the Executive was preparing to implement the revised EU Recognition of Professional Qualifications Directive (the Directive) which Member States must comply with by 18 January 2016. The Directive will affect how the HCPC processes applications for registration based upon mutual recognition from applicants who are from another relevant European State.

9ii.3 During the discussion the following points were made:-

- The Council noted that the fee structure was based on anticipated direct costs incurred to undertake the process. The Executive were not expecting a high volume of applications;
- Some suggestions were made in relation to the language used within the paper and the Council noted that the language had been lifted from the EU Directive.

9ii.4 The Council agreed (subject to the relevant implementing legislation being in force) to:

- set an EPC scrutiny fee, for applications where the HCPC is the host State competent authority, of £220;

- set an EPC scrutiny fee, for applications where the HCPC is the host State competent authority and the application is limited to the provision of services on a temporary and occasional basis, of £25;
- set an EPC scrutiny fee, for applications where the HCPC is the home State competent authority, of £25;
- instruct the Executive to keep the cost of processing EPC applications under review and to inform the Council if the costs incurred are significantly above or below the fees charged.

Item 10.i. 15/247 Fitness to Practise Departmental Update

10i.1 The Council received a report from the Executive.

10i.2 The Council noted that the report set out the main activities of the Fitness to Practise department since the last meeting of Council in September 2015. It included statistical information, including length of time data, for the period April to October 2015.

10i.3 During the discussion the following points were made:-

- Some progress had been made in relation to signing a 'Memorandum of Understanding' with OFSTED;
- Whilst the number of complaints received was below forecast for the year to date, often services within health and social care were under pressure during winter months and so there may be a spike in the number of complaints received in the coming months;
- Despite repeated requests, we had not been in receipt of any 'learning points' from the PSA. However, the Executive were not overly-concerned since ongoing reflection and review of our own processes meant that we were continually striving to improve our own processes;
- The Council noted a decrease in the number of registration appeals. This could be as a result of case conferences being held earlier in the process which assist in reaching an earlier resolution;
- In response to a suggestion about presenting statistics quarterly rather than monthly, the Executive emphasized the importance looking at the statistics on a monthly basis in order to run the business effectively;
- The Council noted a steady increase in the number of complaints relative to particular professions. It was hoped that the proposed

research (a brief for which was on the agenda for consideration on 3 December) would help draw together some of the underlying reasons for this.

10i.4 The Council noted the update.

Item 10.ii. 15/248 Fitness to Practise Practice Notes

10ii.1 The Council received a report from the Executive.

10ii.2 The Council noted there are currently 33 Practice Notes. These documents are available on HCPC's website and are actively referred to during the investigation and hearing processes. We aim to review each Practice Note on an annual basis. The review has three stages. In most cases, there are little or no changes, or there is the requirement to edit the document to make it easier to understand or use. The Practice Notes are not reviewed in isolation. Most relate to an element of an HCPC policy, so the review cycle of the Practice Notes is linked to the review of policies, or any operational guidance for HCPC team members.

10ii.3 The Council approved the changes to the Restoration to the Register Practice Note.

Item 11. 15/249 Fitness to Practise Final Hearing Audit report 1 April 2015 – 30 September 2015

11.1 The Council received a report from the Executive.

11.2 The Council noted the audit of final fitness to practise hearing decisions, covering the period 1 April 2015 to 31 September 2015. The purpose of the audit is to review the quality of decisions reached by fitness to practise committee panels.

11.3 During the discussion the following points were made:-

- That learning points arising from this audit are fed back to panel members through 'refresher' training or occasionally, if a number of concerns relate specifically to a panel member, some direct feedback will be provided;
- That whilst mediation is not always an appropriate sanction once a case has reached the hearing stage, it is important to continue to raise awareness of this alternative mechanism to resolve a dispute;
- The suggestion was made that it would be useful to illustrate some of the paper with graphs and plot the figures against those arising from previous audits. The Executive undertook to look at how this could be presented in future.

11.4 The Council noted the contents of the paper.

Item 12. 15/250 Student Social Worker Suitability Scheme

12.1 The Council noted the paper in relation to the Student Social Worker Suitability Scheme. It was noted that the Scheme had now been closed.

Item 13. 15/251 Education Departmental Update

13.1 The Council received a report from the Executive.

13.2 The Council noted the report sets out the main activities of the Education Department in October and November 2015. It includes statistical information and highlights key work undertaken. It also includes a six month review of the 2015-16 work plan.

13.3 During the discussion the following points were made:-

- The lay visitor focus group held in October was an opportunity for lay visitors to review their experience in relation to the approvals process. Any learning could potentially be extended to the monitoring process;
- In response to a question, the Council noted that new programme approvals and changes to programmes which required HCPC visits, were all outside of the control of HCPC and so were not easy to predict. However, the Executive tried to keep abreast of factors affecting a profession so they could try to anticipate when education providers were likely to seek approval for a new programme or submit a request for a major change to a programme. That said, the number of change requests compared to the number of approved programmes remained low;
- The Executive continued to encourage education providers to notify the HCPC as soon as possible if they are aware of a forthcoming change;
- The suggestion was made that UCAS statistics may help inform resourcing around visits;
- The Council noted that the new IT system for the Department was going well and all employees in the Education Department had transitioned across. It had been an opportunity to restructure the team and those efficiencies yielded had meant that resources could be deployed in other areas, for example, to deal with the higher than anticipated number of visits.

13.4 The Council noted the update.

Item 14.15/252 Any other business

14.1 There were no additional items for consideration that day.

Item 15.15/253 Resolution

15.1 The Council adopted 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;

Item	Reason for Exclusion
16	c
17	c

- (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 16.15/254 Accommodation for HCPC's Tribunal Services

16.1 The Council received a paper from the Executive.

16.2 The Council noted that approval was being sought for the Chief Executive and a member of the Council to affix the Council Seal to a lease being entered into to accommodate the tribunal function of the HCPC.

16.3 The Council noted that the detail in relation to the accommodation and lease had been fully discussed at the meeting of Council in March 2015 and approval to the affixing of the Seal was now being sought.

- 16.4 The Council agreed to authorise the Chief Executive and a member of the Council to attach the Council seal to the lease for 405 Kennington Road, in accordance with Standing Order 23.

Item 17.15/255 Office Accommodation

- 17.1 The Council received a paper from the Executive.
- 17.2 The Council noted that approval was being sought to the renewal of the leases for the office accommodation at 33 Stannary Street.
- 17.3 The Council noted that legal advice would be provided in relation to the terms of the lease.
- 17.4 The Council authorised:-
- (i) the Executive to enter into separate twelve year leases for the offices located at 33 Stannary Street London SE11; and
 - (ii) the Chief Executive and a member of the Council to attach the Council seal to the leases, in accordance with Standing Order 23.

Chair: Elaine Buckley

Date: 12.04.2016