Agenda Item 12 (i)

Enclosure 13

Health and Care Professions Council
21 March 2018

Fitness to Practise Case Progression Plan 2018/19

For discussion and approval

From John Barwick, Acting Director of Fitness to Practise

Council, 21 March 2018

FTP Case Progression Plan 2018/19

Background

The Professional Standards Authority concluded that we had not met standard six of the fitness to practise Standards of Good Regulation in our performance review for 2016/17. Within their report, the PSA indicates that if we achieve a similar position, in terms of timeliness and case progression, as we did in 2014/15, we would again meet this standard 6.

Careful analysis has been undertaken by the case management function Heads to identify what needs to be achieved in order to meet Standard 6. An additional budget of £250,000 was made available and the attached paper outlines options to improve our overall case progression and timeliness. These options will operate alongside and test other initiatives, aimed at improving our case progression and timeliness, that have been set out in the FTP Improvement Plan.

Standard 6 reads: fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to patients and service users. Where necessary the regulator protects the public by means of interim orders.

The paper has been reviewed and supported in principle by the Executive Management Team prior to submission to Council

Decision

Council is asked to note and agree the approach outlined in Appendix 1, including the preferred option 2 for Groups 2 and 3.

Resource implications

- These are outlined in appendix 1. In summary, an additional temporary team of three case managers led by the current Case Reception and Triage Team Leader is proposed coupled with (the preferred option) of outsourcing the management of cases in Groups 2 and 3.

Financial implications

- The targeted case progression interventions outlined in the case progression plan have been costed at £250,000 and is reflected in the proposed budget for 2018/19.

Appendices

Appendix 1 – FTP Case Progression Plan 2018/19

Date of paper

9 March 2018

Appendix 1: FTP Case Progression Plan 2018/19

1. This paper outlines for Council:

    - our current position on case progression timeliness
    - an indication of where we believe we need to be in order to meet Standard 6 of the PSA's Standards of Good Regulation
    - outline options to help to achieve this, with estimated costs for a number of targeted case types.

Current position (based on data as at end of January 2018)

2. As at end of January 2018, we had:

    - a total of 1,893 open active fitness to practise cases, with around 200 new complaints received per month
    - 79% (1,501) at pre ICP stage of the process
    - 21% (392) at post-ICP stage
    - 17% (327) aged between 8-12 months
    - 20% (388) aged between 13-24 months
    - 7% (126) older than 24 months

What we provide to the PSA

3. We report on our case progression timeliness to the PSA on quarterly basis. This includes both reporting on the time it has taken for cases to be concluded at specific stages of our fitness to practise process and a snapshot of the volume of cases that fall within the + 12 month age categories. The data we have provided year to date is:

	Q1	**Q2**	**Q3**
Number of open cases >52 weeks	351	374	394
Number of open cases >104 weeks	89	86	85
Number of open cases >156 weeks	50	45	43
Median weeks from receipt to ICP decision	33	42	38
Median weeks from ICP decision to final Panel decision	52	46	51
Median weeks from receipt to final Panel decision	87	92	90

4. The median age is only calculated for cases that conclude at the relevant stage of the process (i.e. ICP or final hearing). It does not include cases that are open

in the system, but have yet to conclude. An increase in this number therefore demonstrates that older cases are concluding. A focus on concluding our older cases in order to bring down the age of the open case load, will generate an increase in the median age of concluded cases, and should be seen as a sign of progress with managing the oldest cases. Whilst there is demonstrable progress in targeting the oldest cases at conclusion, the number of older open cases is also increasing.

Where we need to be

5. PSA, in this year's performance report say 'although the data records that there have been improvements since last year, timeliness is worse in all areas than in 2014/15'. This suggests that if we achieve a similar position to 2014/15 we would again meet Standard 6.

6. The table below demonstrate where we were in 2014/15 compared to where we are at end of Q3 2017/18.

	2014/15	**2017/18***
Number of open cases >52 weeks	378	394
Number of open cases >104 weeks	80	85
Number of open cases >156 weeks	14	43
Median weeks from receipt to ICP decision	33	38
Median weeks from ICP decision to final Panel decision	39	51
Median weeks from receipt to final Panel decision	73	90

*end 2017/18 Q3 figures

The options

7. The fitness to practise process, and the progression of cases within it is complex. Cases will continue to enter the process at a rate that is not within our control – around 200 per month - and they can only be closed when it is appropriate to do so. Cases will stall for numerous reasons, which can be outside of our control (for instance, the conclusion of complex Police or employer investigations). Additionally, cases can be linked to other cases, and the progression of one case becomes dependent on the progression of all of the linked cases. There is also a need to manage the flow of cases through each stage in order to ensure that we remain within our financial and human resource constraints.

8. Putting us back into a position that is similar to that in 2014/15 will require a number of interventions, which have been captured in the FTP Improvement Plan. These targeted interventions have been formulated following a careful analysis of our current case load, and the longer term impact that will be gained by different approaches. This paper is intended as a summary and the details of the analysis can be explored further in discussion if required.

9. There is not one single solution to the issues described. As such, we have identified four key parts of the process that contribute to an overall improvement, and not send a ripple effect through the process that destabilises financial or resource plans.

10. As the FTP process is a series of process points (as set out in our Order), the aim is to manage cases to their final decision making point as quickly as possible, but maintaining the required quality. For instance, once received, a concern may pass through an assessment of whether it meets HCPC's Standard of Acceptance; then whether the registrant has submitted evidence about the circumstances of the matter; then whether the case meets the relevant test of "case to answer"; then further investigation, scheduling and consideration in a hearing. Delays in each stage can be cumulative. However, freeing up of one delay can also free up the case to a rapid conclusion, even if there are further stages of consideration.

11. The options proposed should result in the speedier progression of some cases through all stages of the fitness to practise process as well as a reduction in the number of aged cases. They will also provide for the testing of these new or enhanced ways of working, so that we can measure the impact, which will provide us with rich data for future and longer term planning around case progression. A further benefit would be a reduction in the caseload across Case Reception and Triage (CRT) and Investigations (INV) teams, that would allow them to focus on the remaining cases outside of this approach.

12. We anticipate that if any or all of these approaches have a positive impact, they could be scaled up and applied to other similar cases.

Outline action plan

13. Through analysis of the current pre-ICP caseload and using recognised operations management techniques, we have identified four groups of cases in which we propose a different approach: These are cases:

- at the very earliest stage of the process – and so with the CRT team - which could be assessed more rapidly and either closed or transferred to the INV team for enhanced investigation (*Group 1*);
- that have met the Standard of Acceptance (SOA) and have slipped outside optimum case timeframes but could be brought back on track with more intensive management (*Group 2*);
- that have missed length of time measures and still require detailed work to get them to ICP so would benefit from more focused attention (*Group 3*);
- older than 24 months since receipt, which are numerically few (20 – 25) but need regular scrutiny to mitigate reputational risk (*Group 4*).

14. Concentrating on these four groups requires a mixed approach and differing skills. The proposed approach should demonstrate improvement, including to

length of time but also to quality, across a sample of around one third of the open caseload. Additional resources allocated to these groups would allow the team members working on the remaining cases to have more focus, and therefore greater engagement with their cases. This would improve morale in the teams and provide less complex management of competing priorities. From recent staff exit interviews, we think this would also improve employee retention. The mixed approach we propose is:

- *Group 1:* an additional team of three temporary Case Managers (CMs) - with smaller caseloads (35 each rather than 45) and led by the existing CRT Team Leader - to enable retention and management to conclusion of likely case closures beyond the eight week point at which they would currently be transferred to INV. This should increase the volume of closures completed by CRT from 35% to around 85%. Retaining most closure decisions within CRT will: test what skills are needed for autonomous decision-making in a triage setting (a part of FTP Improvement Plan activity); help demonstrate to PSA robust and consistent application of the SOA (a key concern from the 2016/17 Performance Review); and release INV resource to focus on the enhanced investigation of cases that meet the SOA (also a PSA concern).

- *Group 2:* either an additional team of four temporary CMs - with significantly smaller caseloads (15 each) supervised by a temporary Team Leader (probably an acting-up experienced CM) and supplemented by additional external legal advice – **or** (our preference) outsourcing to an external provider (see *Group 3* below*)* with the aim of intensive management of an initial 25% sample of cases (around 60) that have slipped just outside the optimum case expectation – ie that 75% of allegations should be sent to registrants within six months of receipt of the concerns by HCPC. We would prioritise the higher risk cases for selection. The objective would be to bring these cases back on track to meet the overall 17 months end to end optimum time. Existing INV resource would be freed to focus on ensuring newer cases are progressed to the point of the allegation being sent within the six months optimum.

- *Group 3:* outsourcing - to our existing legal providers and/or to other providers - management to ICP of a sample of the, more complex and intractable, older (ie 9+ months) cases. The focus would be on identifying and addressing barriers to progression and assuring the quality of allegations, thereby reducing adjournments at ICP and, again, releasing INV CM resource to concentrate on keeping the newer cases on track. *[Because outsourcing would bring some extra benefits (see below) – including overcoming the challenges of recruiting, retaining, accommodating and managing significantly more temporary staff – our preference would be to outsource both Groups 2 and 3, albeit not necessarily using the same provider for both.]*

- *Group 4:* included for completeness but the oldest cases are already being addressed through enhanced senior management scrutiny and use of our monthly case progression review meetings. Going forward we will apply any lessons learned from the pilot on how cases might be better managed earlier in the process to prevent their getting old and also consider whether they should be reported differently.

15. We propose to operate these approaches for at least six months to ensure evaluation is meaningful. It will only be when the allegation is sent and the ICP then consider the case that we will see the impact on quality and length of time.

16. We have considered and discounted any external outsourcing of the earliest stages of case management, due to the short duration of the stage, and the complexities of management oversight. As such, Group1 cases would be managed in house. We believe that the proposed outsourcing approach in Group 3 to be preferable to Group 2 because:

    - We have a number of vacancies and temporary Case Managers in FTP currently. Adding more temporary workers requires more training and induction, and therefore requires a greater management resource. More temporary team members can dilute the experience pool of the team overall, and make management more complex.
    - There is a risk that temporary Case Managers may not be available, or may not remain in post for the duration of the pilot approach. Changes in staffing introduces lag times to complete the work, makes consistency of application or evaluation of the approach more difficult, and requires repeated induction and training.
    - Hosting more temporary workers requires available desk space and equipment, or requiring existing team members to work from home. This may have an effect on morale of the existing FTP team members.
    - External suppliers may be willing to try new ways of working, and may have focused delivery on complex case skills. They may also have a range of skills (from legal to non-legal trained personnel) that work in existing teams. This would prevent us having to develop these team relationships at the same time as progressing cases.
    - Having cases sent as a package with clear deliverables means the supplier manages the risks associated.
    - Having external input or review of cases either validates our existing approach, or provides further assurance to PSA that we are escalating cases appropriately.
    - If a supplier does not deliver, we can change them. Working with one or more suppliers can road test new approaches, which will in turn inform the tender exercise and scope for external legal services that we need to complete by Christmas 2018.

Costs

17. The approach set out has been formulated to fit within the additional budget of £250,000 which has been made available and breaks down as follows:

Group 1 – £84,000

- Three temporary CRT Case Managers for a six-month period – £75,000
- Extension of the contract for the current CRT Team Leader – £9,000

Groups 2 and 3 (option 1: in house model) – **£165,000**

- Four INV Case Managers for a six-month period – £100,000
- A dedicated manager for a six-month period – £35,000
- Additional external legal support on site for approximately two days per week (totalling 200 hours and based on £150 per hour) – £30,000

Groups 2 and 3 (option 2: outsourced model) – **£165,000**

- Additional external legal support on site for existing case teams, for approximately two days per week (totalling 200 hours and based on £150 per hour) – £30,000
- Based on a total of 900 hours to complete the investigation of 60 cases – £135,000

Benefits and likely impact on length of time and progression

18. The benefits of these approaches (all of which relate to the Improvement Plan) include:
    - Testing new ways of working
    - Informing the skills needed for the different work streams going forward
    - Reassessing CMs' caseload capacity
    - Improving to quality
    - Reducing length of time.

19. It is difficult to assess the exact impact on the length of time savings, as the length of time is only calculated when the case concludes. We would therefore need to know which cases we would target; their current age would then be known, and a projection of how long to conclude the work could be made. However, we know that a number of the oldest cases are delayed for legitimate reasons, and no intervention will progress them.

20. To estimate the impact, we have applied some statistical modelling and assumptions to each group. Our main assumption is that within each of the 4 target groups, we would focus and draw on the cases that are within the 5th to 85th percentile. Our reasoning is that the oldest 5% will be complex and beyond our control. Additional efforts would not change this. Similarly, the youngest 15% do not contribute significantly to the length of time, and are able to progress at the expected rate.

21. Analysis of the 5th to 85th percentile groups shows:

- In Group 1 (early assessment cases), there are 108 (37%) of the cases that are within 4 weeks of the optimum transfer time to INV. Concentration on these cases will either close them down (and thus contribute to the concluded length of time statistics), or advance them to the next stage of information collection, and allow them to be processed to go to an Investigating Committee panel. Currently, we estimate a reduction of 2-3 weeks of the lifetime of cases within this stage of the process.

- In Group 2 or 3 (pre ICP stage), the median age of the 5-85th percentile cases shows a difference of 1 month form the median time to get to the registrant providing their evidence stage, when compared to the total group. Similarly, there is a further month difference in the median time from the registrant engaging to the ICP panel making a decision to close or refer the case.

- Whilst it cannot be assumed that these gains can be had in all cases under this review, it is possible that some cases may benefit from the cumulative effect of 2-3 weeks in the earliest stage, plus up to a month in the engagement stage, and up to a month in the ICP preparation stage. However, if this effect was experienced and applied across the target groups, we estimate that the effect would be of the order of 4-5weeks off the overall pre-ICP length of time. This would be half of the difference between current performance and that in 2014-15, plus the unknown effect of ensuring other, newer cases remain on target. We need to test the impact to assess the magnitude, and it would be possible to scale up the approach if the positive impact is as expected.

- Some cases may only require the unlocking of one of these stages, and then the case remains on the optimum case trajectory.

- This activity is running in tandem with the post ICP case improvements, which are targeting the oldest cases going to hearing. Whilst numerically fewer, the weighting of these cases when complete is greater on the length of time statistics. In the last 18 months, we have reduced the number of cases from 538 to 395. We will start to see a greater contribution of the weighting of these cases in the six months that the proposed interventions are being implemented.

Summary and recommendation

22. A mixed approach of targeted interventions is proposed to help improve our performance against the key length of time measures. In order to test these new approaches and validate our assumptions, we recommend the targeted approach of an in house solution to Group 1 (early assessment cases) and an outsourced solution to Groups 2 and 3 for reasons outlined at paragraph 16.