

Council

Public minutes of the 149th meeting of the Health and Care Professions Council as follows:-

Date: Thursday 23 March 2023

Time: 11am

Venue: HCPC Offices

Present: Christine Elliott (Chair)
Oli Davies*
Damien Baker*
Maureen Drake
Rebekah Eglinton
Kathryn Foreman
Sue Gallone
Helen Gough
John McEvoy
Lianne Patterson
David Stirling
Kathryn Thirlaway
Valerie Webster
Steven Vaughan

In attendance:

Bola Ademuyiwa, Learning and Development Officer

Zoe Allan, Governance Officer

Claire Amor, Executive Director of Governance, Assurance and Planning

Alastair Bridges, Executive Director of Resources and Business Performance

Laura Coffey, Interim Executive Director of Regulation

Rosemary Flowers-Wanjie, Policy Manager

Rachael Gledhill, Acting Head of Policy and Standards

Colette Higham, Professional Standards Authority

Mark Platt, Policy Lead

Andrew Smith, Interim Deputy Chief Executive

Kate Steele, Capsticks LLP

*Council Apprentice

Public Agenda

Item 1. 23/18 Chair's welcome and introduction

1.1 The Chair welcomed those present to the 149th meeting of Council.

Item 1.i. 23/19 Apologies for absence

1.i.1 There were no apologies for absence.

Item 1.ii. 23/20 Approval of Agenda

1.ii.1 The Council approved the agenda.

Item 1iii. 23/21 Declaration of Members' interests

1.iii.1 Member's had no interests to declare.

Item 1iv. 23/22 Minutes of the Council meeting of 23 February 2023

1.iv.1 The Council agreed to amend the first bullet point in paragraph 4.3 of the minutes to remove the reference to reference to 3%. With this amendment, the Council approved the minutes of its meeting of 23 February 2023.

Item 1.v. 23/23 Matters arising

1.v.1 The Council noted those matters arising from previous meetings.

Standing reports

Item 2. 23/24 Chair's Report

2.1 The Council noted this item.

Item 3. 23/25 Interim Deputy Chief Executive's performance report

3.1 The Council received a report from the Interim Deputy Chief Executive. The report highlighted key areas of development in the reporting period, since February 2023.

3.2 The Council noted the following points:-

- the Executive team were pleased to report that 80% of the delivery milestones for the 2022-23 Corporate Plan had been achieved. The

Council thanked the HCPC's employees for their work in delivering the Corporate Plan 2022-23 alongside essential business as usual activity;

- the 2023-24 Corporate plan would be presented to Council later on the agenda. The plan had been developed based on a realistic assessment of what could be delivered, while still ensuring a balanced budget for 2023-24;
- stakeholder engagement in the period had focused on communicating the Council's decision to seek an increase to the HCPC's registration fee. Following the decision, a number of one to one meetings were held with professional bodies and unions, in addition to two professional body webinars.

- 3.3 The Council discussed the HCPC's stakeholders' reactions to the proposed fee rise, which had been agreed by the Council at its February 2023 meeting, and which was awaiting parliamentary approval. The Interim Deputy Chief Executive noted that engagement had been constructive with the HCPC's rationale for requiring a fee rise being understood, even if the fee rise was not supported. The Council thanked the Executive for the transparent and accessible approach to stakeholder engagement on the fee rise.
- 3.4 The Chair of the Audit and Risk Assurance Committee (ARAC) commended the Executive on the pace at which issues with the HCPC's financial controls had been addressed following an Internal Audit. She added that ARAC would be keeping the HCPC's financial sustainability under close review through the Strategic Risk Register in 2023-24, as while regulatory reform would mitigate some of the financial sustainability risk the HCPC faced, the timing and scale of the change could require additional action before new legislation was in place.
- 3.5 In response to a question, the Executive Director of Governance Assurance and Planning noted that a review of the HCPC's risk appetite would take place in quarter one of 2023-24. The Council noted the need to consider the HCPC's risk appetite with regards to regulatory reform.
- 3.6 The Council asked if the HCPC had received any feedback from Higher Education Institutions (HEIs) on the revised Education Quality Assurance model which had been in operation for over a year. The Interim Executive Director of Regulation noted that positive feedback had been received on the model taking into account organisation wide quality assurance context when focusing in at programme level. The intention of the model to be more collaborative was evident in only one approval condition being set in 2022-23. It was also noted that the themes identified and resolved with providers during the approval process, which may have led to conditions, arising from the first year of operation would be shared more widely with the HEIs.
- 3.7 The Council discussed the HCPC's engagement on the NHS workforce plan and noted that while the plan was for England only, the HCPC had sought four country engagement on workforce planning.

- 3.8 The Council noted that the KPI for final hearings concluded in 2022-23 would not be met, and asked what confidence the Executive had that this KPI would be met in 2023-24. The Interim Executive Director of Regulation advised that improvements in the age of cases concluded at final hearing would take time to impact the KPI as the focus continued to be on progressing older cases through the process, and therefore it was expected that the proportion of cases concluded within KPI would remain lower. She added that a risk assessment had been applied to cases waiting final hearing, with the higher risk cases being prioritised.
- 3.9 The Council welcomed the improvement in the proportion of EDI data held for registrants. It was noted that system enhancements had made the provision of this data a required step of registration and renewal, however registrants and applicants could opt to state 'prefer not to say'. It was agreed that an update on the categories and proportion of data held would be provided at the Council's May 2023 meeting. **ACTION.**

Item 4. 23/26 Finance Report

- 4.1 The Council received a report from the Executive Director of Resources and Business Performance outlining the HCPC's financial position as at the end of January 2022.
- 4.2 The Council noted the following points:-
- following a reforecasting exercise, the HCPC's year-end forecast was a deficit of £226k, compared to a previously forecasted surplus of £447k. This was largely attributable to factoring in provisions, year-end activity on estates downsizing, a review of the HCPC's partners operating model and other adjustments;
 - appendix B to the report listed the year end provisions expected to be included in the HCPC's accounts for 2022-23;
 - the projected deficit for the year was £226k, which would give an end of year closing reserves balance of £1.3m. This remained outside of the HCPC's reserves policy which required the HCPC to hold positive net assets, less intangible assets. Compliance required reserves of around £9m; and
 - the report was presented to the People and Resources Committee (PRC) at its March 2023 meeting.
- 4.3 The Council noted that the HCPC would remain outside of its agreed reserves policy as a result of the year end position, and that the HCPC had been outside of this policy for a number of years. The Council asked that the Executive consider the merits of developing an interim reserves policy to reflect the HCPC's financial situation and better articulate the risk that the Council was accepting in the intervening period while the HCPC worked towards compliance with the existing policy. **ACTION.**

- 4.4 The Council requested that future finance reports included a plain English summary of the HCPC's financial position for ease of understanding for all of the HCPC's stakeholders some of whom would not be familiar with financial terminology. **ACTION.**

Item 5. 23/27 Standards of Conduct Performance and Ethics and Social Media Guidance Review

- 5.1 The Council received a paper from the Policy Manager. The paper sought the Council's approval to launch a public consultation on proposed changes to the HCPC's Standards of Conduct Performance and Ethics (SCPE) and Social Media Guidance.

- 5.2 The Council noted the following points:-

- the proposed changes to the SCPE and Social Media Guidance fell under five key themes, being: equality diversity and inclusion, communication with colleagues, service users and carers, duty of candour, upskilling and training responsibilities and managing existing health conditions and disabilities in the workplace;
- an additional theme of sustainability had been included in the consultation to explore stakeholder views on how sustainability could be included in the standards for future reviews.
- to support consultation engagement, it was proposed that the HCPC host six stakeholder workshops, one on each of the six themes of the consultation. In addition, two post consultation working groups would be formed with stakeholders to discuss the accessibility of the SCPE;
- a full Equality Impact Assessment (EIA) for the proposed changes to the SCPE and Social Media Guidance had been carried out and was included in the paper as an appendix;
- the Education and Training Committee (ETC) reviewed the proposed consultation at its meetings of September 2022 and March 2023, and agreed to recommend that the Council launch a public consultation on the proposals; and
- subject to the Council's approval, the consultation would run for 12 weeks, from 27 until 16 June 2023.

- 5.3 The Council discussed the proposed revisions to the HCPC's Social Media Guidance. It was agreed that professional communication was required of registrants regardless of the medium over which communication took place and that this should be borne in mind when revising the guidance. The need for careful consideration of the difference between public and personal communication was also noted.

- 5.4 The Council agreed that consultation engagement should seek to capture private sector views, as registrants in private practice may be more likely to use social media for advertising and communication regarding their practice. **ACTION.**
- 5.5 The Council noted that the consultation would launch not long after after the close of the HCPC's fees consultation and asked how the Executive would ensure good levels of stakeholder engagement for a new major consultation. It was noted that the date of the SCPE consultation had been changed to ensure no overlap with the previous fees consultation. Pre-consultation engagement with key stakeholders had taken place which indicated willingness to engage on the review. In addition, a series of focused workshops would take place during the consultation to capture stakeholder feedback directly.
- 5.6 The Council noted that the pre-engagement, and the proposed engagement during the consultation period included four country representation.
- 5.7 The Council asked that the consultation document be reviewed for potential plain English revisions to aid lay stakeholders understanding. **ACTION.**
- 5.8 The Council discussed the need to consider how the HCPC's guidance and standards would adapt to registrants' use of emerging technologies, beyond social media, but as part of day-to-day practice, such as artificial intelligence.
- 5.9 The Council discussed pre-engagement feedback regarding concerns about abusive treatment of registrants by service users. It was noted that the HCPC did not have a remit in this area, however the Council agreed that the language in the SCPEs and guidance could encourage registrants to support each other in such situations and to escalate through appropriate channels.
- 5.10 The Council agreed to launch a public consultation on the SCPE and Social Media Guidance revisions as presented in the paper. The Council asked that the results of the consultation be presented to the Council in manageable sections to enable enough time for discussion of the key themes. **ACTION.**

Item 6. 23/28 Maintaining the Temporary Register

- 6.1 The Council received a paper from the Acting Head of Policy and Standards. The paper sought approval from the Council on the HCPC's approach to maintaining the temporary register.
- 6.2 The Council noted the following points:-
- the temporary register opened to former registrants and final year students on 17 March 2020 as part of legislative powers under the Coronavirus Act 2020. The intention of the temporary register was to support workforce provision at a time of national emergency and high NHS demand;

- student temporary registration ended in November 2020 and closed in September 2021;
- when the provisions in the Coronavirus Act 2020 expired in March 2022, the temporary register was closed to new applications, but remained open to those already temporarily registered. Two reviews of the temporary register had been undertaken since its opening to provide assurance on the skills and experience of those operating on the temporary register;
- it had been expected that the temporary register would close in September 2022, however the Government announced that it would keep the emergency temporary registers open for a further two years; and
- the extension required the HCPC to review its ongoing maintenance of the temporary register to ensure it continued to balance public protection with supporting the workforce.

- 6.3 The Council thanked the Acting Head of Policy and Standards for the well thought out options presented.
- 6.4 The Council discussed what was meant by practice being in support of Covid recovery, noting that this could be very broad and that it would be hard to envisage how some of the HCPC professions would still be working in support of covid recovery. The Acting Head of Policy and Standards agreed, noting that the HCPC would need to produce high level guidance on this point, as a list of tasks that would be captured would not be possible to define.
- 6.4 The Council agreed that a wider definition of practice in support of covid recovery should be adopted given the workforce support aims of the continuation of the temporary register.
- 6.5 The Council discussed the costs of running the temporary register. It was noted that temporary registrants were not charged a fee and instead the HCPC's operational costs were covered by a grant from the Department of Health and Social Care (DHSC). The Council noted its concern that this could be seen as a disadvantage to full registrants who were paying the fee or discourage those on the temporary register to reenter their professions on a permanent footing. It was emphasised that the operation of the temporary register would not be funded through registrant fees and that continued funding from DHSC was under discussion.
- 6.6 The Council asked if registrants on the temporary register had a higher incidence of FTP concerns being raised. The Interim Executive Director of Regulation advised that this was not the case, 9 referrals had been received for temporary registrants since the register had been open, of those 8 were removed from the register. It was agreed that a comparison of FTP concerns for the permanent and temporary register would be presented at the Council's May meeting. **ACTION.**

- 6.7 The Council agreed that option two for the maintenance of the temporary register, as set out in the paper, should be implemented. This option would introduce conditions around declarations, CPD requirements and a link to practice in Covid recovery support. It was noted that the self-declaration of working in support of covid recovery would be mandatory and would pose an ethical issue for FTP consideration if it came to light the registrant was not working in this capacity.
- 6.8 The Council agreed the following with regards to the implementation of option two:-
- that guidance should be provided to temporary registrants to ensure that their declarations were specific as to the work they were undertaking to support the Covid recovery;
 - that temporary registrants should be notified that the HCPC may at any time in the future require them to undergo a CPD audit; and
 - that workforce stakeholders should be engaged on the HCPC's agreed approach to the ongoing maintenance of the temporary register.

Item 7.i. 23/29 Budget 2023-24

- 7.i.1 The Council received a paper from the Executive Director of Resources and Business Performance. The paper sought the Council's approval of the HCPC's 2023-24 budget.
- 7.i.2 The Council noted the following points:-
- the budget presented a modest operating surplus of £123k but an overall negative position of £452k, after taking account of capital funding for the priority investment projects;
 - the budget and Corporate Plan were developed in tandem through close work with budget holders across the HCPC;
 - the budget incorporated the Remuneration Committee's recommendation to Council on the annual pay award (4.5%);
 - the PRC reviewed the presented budget at their meeting in February 2023 and agreed to recommend it to Council; and
 - there had been a small change to the budget reviewed by the PRC which related to FTP legal costs which had changed to reflect a mix of providers to ensure speed and quality of case throughput. These costs were accommodated from within the corporate contingency and did not change to the bottom-line position recommended by PRC.
- 7.i.3 The Chair of the PRC commented on the significance of achieving a balanced budget and the evident level of challenge and scrutiny the PRC had seen.

PRC had acknowledged that there were still financial risks which needed to be carefully managed and monitored through the year. The Committee had been assured it presented a prudent budget and recommended it to Council. The Chair of ARAC agreed with these reflections and welcomed the draft budget's focus on benefits realisation and investment prioritisation.

- 7.i.4 The Council noted the decrease in depreciation costs and raised the issue of holding assets with no book value, which the Executive Director of Resources and Business Performance confirmed he was aware of and monitoring this issue.
- 7.i.5 The Council discussed the risk of international application processing backlogs reoccurring in 2023-24. The Executive Director of Resources and Business Performance noted this continued to be closely monitored and would continue to be mitigated by a flexible approach to temporary staffing and a third-party service provider in the extremis if required.
- 7.i.6 The Council reflected on the high volumes of international applications and noted that more Council members had been trained as Registration Appeal Chairs to support this process. The Chair thanked Council members Kathryn Foreman and David Stirling for their commitment to this important role.
- 7.i.7 Council discussed the funding of the HCPC's work to improve its use of data, noting that the data aspects of the 2022-24 Corporate Plan had not progressed to target. The Executive Director of Governance, Assurance and Planning confirmed that data quality issues had impacted on progress, and the priority for 2023-24 was to invest time on improving these issues as part of the 2023-24 Corporate plan. Some progress would be made as part of the corporate plan deliverables, including incremental progress on developing the data platform, but the fee rise would be needed to fund a more ambitious programme that would have a significant impact on the way in which HCPC used its data. Ambitions around data remained strong.
- 7.i.8 The Council approved the 2023-24 budget and the employee pay award included within it.

Item 7.ii. 23/30 Corporate Plan 2023-24

- 7.ii.1 The Council received a paper from the Executive Director of Governance, Assurance and Planning. The paper sought the Council's approval of the HCPC's 2023-24 Corporate Plan.
- 7.ii.2 The Council noted the following points:-
- the Council reviewed an early draft of the Plan at its February 2023 meeting, the underlying content had not changed, and the Council's comments from this earlier discussion had been addressed;
 - the paper appendices included a set of delivery milestones for the 2023-24 Corporate Plan and a review of the delivery of the 2022-23 Corporate Plan;

- the Corporate Plan milestone tracker included a placeholder for the fee rise mitigations and would be developed subject to the fee rise;
- 7.ii.3 The Council asked the Executive about its confidence in achieving the presented milestones given the budgetary challenges faced by the HCPC as set out in the 2023-24 budget. The Executive Director of Governance, Assurance and Planning confirmed the Executive were confident in achieving the milestones as there had been significant work in developing them to align with the budget, and they were realistic in terms of current resource. Council would receive progress updates quarterly as standard. The importance of setting ambitious targets was reflected by Council.
- 7.ii.4 The Council reflected on the use of images within the document and asked the Executive if the HCPC had an images policy and whether the images used reflected the 15 professions. The Executive confirmed that there was no images policy currently, but agreed to review the images in the document to better reflect the profession groups. **ACTION.**
- 7.ii.5 The Council discussed the tone of voice review and noted it was disappointing it had not progressed as planned but acknowledged that work was well underway and would complete in quarter two of 2023-24. The Council requested that the Executive highlight the work that had been achieved to date throughout the paper. **ACTION.**
- 7.ii.6 There was an observation that the document appeared to be mainly registrant focused with a lack of a service user and public focus. The Executive provided assurance about the benefits to patient users and the public as a result of the activities planned under the three themes which all centred around patient safety and public protection. The Executive and agreed to review the narrative in the report to ensure more emphasis on this group. **ACTION.**
- 7.ii.7 The Council provided some minor drafting comments for the Executive to action.
- 7.ii.8 The Council approved the Corporate Plan 2023-24 and noted the associated milestones and the review of the 2022-23 Corporate Plan delivery.

Item 8. 23/31 Unconfirmed minutes of the Education and Training Committee of 7 March 2023

- 8.1 The Council noted this item.

Item 9. 23/32 Unconfirmed minutes of the People and Resources Committee of 9 March 2023

- 9.2 The Council noted this item.

Item 10. 23/33 Any other business

10.1 The Council agreed that any other business item would not be included in future Council agendas. Members were encouraged to discuss any Council business with the Chair in good time for the development of agendas.

Item 11. 23/34 Resolution

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;

- (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
12	H
13	H
14	H
15	B
16	C
17	C
18	B
19	H
20	C / H

Chair:

Date: