

Education and Training Committee, 3 March 2016

Scheme of Delegation

Executive summary and recommendations

### **Introduction**

At its annual awayday meeting in October 2015, the Council agreed that the HCPC Code of Corporate Governance (the **Code**) should be reviewed. Subsequently, a small number of amendments to the Code were adopted by the Council at its meeting in December 2015.

Two of the amendments made to the Council's Scheme of Delegation (the **Scheme**) affect provisions in the Education and Training Committee's Scheme of Delegation (the **ETC Scheme**).

### **Delegated authority: registration appeals**

Responsibility for the management of registration appeals has passed from the Fitness to Practice Department to the Registration Department. As a result, a number of administrative functions in relation to registration appeals which were delegated to the Director of Fitness to Practise have now been assigned to the Chief Executive or an officer nominated by the Chief Executive.

Amendments to give effect to this change were made to the Scheme and a related amendment needs to be made to the ETC Scheme, and appears as the struck through paragraph 6 of the appended draft.

### **Delegated authority: qualifications list**

Under the Scheme, the approval of UK qualifications is delegated to the Education and Training Committee. The Scheme also provided for the Committee to be responsible for maintaining and publishing the Council's list of those approved qualifications. However, as the latter task is an administrative function, it has now been delegated by the Council to the Director of Education.

An amendment to give effect to this change was made to the Scheme and a related amendment needs to be made to the ETC Scheme asset out in paragraphs 4 of the appended draft.

## **Decision**

Although the proposed amendments are relatively minor, in order to ensure that the Code remains coherent and easy to use, the Committee is asked to approve these changes by adopting a revised version of the ETC Scheme of Delegation and revoking the previous version.

The Committee is asked to agree:-

That, subject to the amendments shown in that document being made, the draft Education and Training Committee Scheme of Delegation presented to the Committee is adopted and the existing Scheme is revoked.

## **Background information**

None

## **Resource implications**

None.

## **Financial implications**

None.

## **Background papers**

None.

## **Appendices**

Draft Scheme of Delegation

## **Date of paper**

8 February 2016

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## EDUCATION AND TRAINING COMMITTEE SCHEME OF DELEGATION

### 1 Introduction

- 1.1 This scheme of delegation (the **Scheme**) is intended to facilitate the efficient and effective functioning of the Education and Training Committee (the **Committee**).
- 1.2 The Scheme is designed to ensure that, so far as possible, the Committee sets policy and strategy and the Executive implements that policy and strategy and is responsible for all operational matters.
- 1.3 The Scheme sets out:
  - 1.3.1 those decisions which the Committee has reserved or must reserve to itself;
  - 1.3.2 those decisions which it has delegated to the Chief Executive and Registrar (the **Chief Executive**) and persons nominated by the Chief Executive;
  - 1.3.3 those decisions which it has delegated to nominated Directors and persons nominated by them.
- 1.4 The Executive, under the direction of the Chief Executive, remains responsible for day to day administration of the HCPC's affairs and nothing in the Scheme applies to any decision which is administrative in nature.

### 2 Withdrawal of delegated power

- 2.1 The Scheme remains in force unless and until it is amended or revoked by the Committee.
- 2.2 The requirement to amend or revoke the Scheme does not apply to any matter where the Committee is of the opinion that delegated authority should not be exercised. In that event, the Committee may resolve that delegated authority shall not be exercised in relation to that matter.

### 3 Exercise of delegated power

- 3.1 Where power is delegated under the Scheme, it must be exercised in a manner which is consistent with the requirements of the Health and Social Work Professions Order 2001 (the **2001 Order**) and any rules made under it, any policies or procedures established by the Committee and the Committee's obligations under the general law.
- 3.2 In particular, the decision maker must have regard to Article 3(4) of that Order, which provides that the main objective of the HCPC in exercising its functions is to safeguard the health and well-being of persons using or needing the services of registrants.

- 3.3 The decision maker must also recognise that lawful exercise of a statutory power requires not only formal compliance with the conditions laid down for its performance but also with the principle that all statutory powers must be exercised in good faith and for their proper purpose.
- 3.4 Delegation does not impliedly authorise sub-delegation. Consequently, a person to whom the Committee has delegated any power may not permit another person to exercise that power unless the Committee has expressly authorised them to do so.

#### **4 Matters reserved to the Committee**

- 4.1 The Committee retains ultimate responsibility for all policy matters including agreeing the overall strategy for the performance of its functions.
- 4.2 The Committee retains responsibility for the following decisions which, to the extent that it is lawful to do so, may only be delegated by means of a specific resolution of the Committee:
  - 4.2.1 responding to any consultation by the Council under Article 7 of the 2001 Order on the making of rules or the determining or varying of fees;
  - 4.2.2 approving, for the purpose of Article 12(1) of the 2001 Order, qualifications awarded in the United Kingdom which attest to the standard of proficiency required for admission. (This is a function which has been delegated to the Committee by the Council without authority to sub-delegate);
  - 4.2.3 establishing procedures under Article 12(2) of the 2001 Order for the assessment of qualifications obtained, and training and experience acquired, outside of the United Kingdom;
  - 4.2.4 giving advice to the Council under Article 14 of the 2001 Order in relation to the establishment of Standards of Proficiency, Standards of Education and Training and Standards of Continuing Professional Development;
  - 4.2.5 responding to any consultation by the Council under Article 15 of the 2001 Order on the establishment of Standards of Education and Training and requirements for admission to and participation in education and training;
  - 4.2.6 approving courses of education and training, qualifications, institutions and tests of competence under Article 15(5) of the 2001 Order;
  - 4.2.7 ensuring that universities and other relevant bodies in the United Kingdom are notified of the Standards of Education and Training and the Council's requirements for admission to and participation in such education and training and taking appropriate steps to satisfy the Committee that these standards and requirements are being met;

- 4.2.8 approving education and training provided outside of the United Kingdom under Article 15(6) of the 2001 Order;
  - 4.2.9 receiving any report submitted to the Committee by a Visitor under Article 16(7) of the 2001 Order;
  - 4.2.10 imposing reporting requirements on Visitors under Article 16(7)(b) of the 2001 Order;
  - ~~4.2.11 maintaining and publishing the Council's list of approved courses of education and training, qualifications and institutions;~~  
~~————— (but the Director of Education may correct the list to ensure that it remains factually accurate);~~
  - 4.2.11 withdrawing or refusing approval of an institution for failure to provide information and assistance under Article 17(3) of the 2001 Order;
  - 4.2.12 withdrawing or refusing approval of a course of education and training, qualification or institution under Article 18 of the 2001 Order;
  - 4.2.13 responding to any consultation by the Council under Article 21(3) of the 2001 Order on the giving of guidance in relation to the Standards of Conduct, Performance and Ethics or the standards of education and training, supervision and performance of persons who provide services in connection with those provided by registrants.
- 4.3. The Committee is also responsible for making decisions in relation to any matter:
- 4.3.1 in which a person who would otherwise have delegated authority to act has an actual or potential interest;
  - 4.3.2 which, in the opinion of the Chief Executive, would for any reason be more appropriately dealt with by the Committee.

## **5 Matters delegated to the Chief Executive and any officer nominated by the Chief Executive**

- 5.1. determining applications for admission to the register, including determining whether the applicant holds an approved qualification, and meets the health and character requirements for safe and effective practice;
- 5.2. determining applications for renewal of registration and readmission to the register, including determining whether the applicant needs to meet or has met any additional requirements required by Article 10 of the 2001 Order;
- 5.3. determining applications for admission to the register made under Article 13 of the 2001 Order;

- 5.4. requiring a person to submit further evidence, documents or information in respect of any application for admission or readmission to the register or renewal of registration;
- 5.5. requiring a person to submit evidence of the continuing professional development (CPD) activity they have undertaken in compliance with standards made under Article 19(1) of the 2001 Order;
- 5.6. removing a person from the register under Article 19(3) of the 2001 Order for failing to comply with CPD standards.

**~~6. Matters delegated to the Director of Fitness to Practise and any officer nominated by the Fitness to Practise~~**

- ~~6 Obtaining legal advice on, appointing persons to represent the Committee as respondent in and responding to registration appeals.~~

~~(This function is limited to proceedings before the Registration Appeals Panel. The conduct and defence of court proceedings relating to registration appeals is a Council function which has also been delegated to the Director of Fitness to Practise).~~

**6. Matters delegated to the Director of Education and any officer nominated by the Director of Education**

- 6.1. Appointing (but not selecting) the Visitors who are to visit any place or institution for any purpose of Part IV of the 2001 Order;
- 6.2. Sending a copy of any report received by the Committee from a Visitor under Article 16(7) of the 2001 Order to the institution concerned and notifying that institution of its right to make observations in accordance with Article 16(9) of the 2001 Order;
- 6.3. Requiring a relevant institution to provide information and assistance under Article 17(3) of the 2001 Order (information and assistance reasonably required in connection with the discharge of the Committee's functions);
- 6.4. Giving notice to the institution concerned and notifying that institution of its right to make observations in relation to any proposal by the Committee to refuse or withdraw approval in accordance with Article 18 of the 2001 Order.

**17<sup>th</sup> September 2013**