

Tribunal Advisory Committee, 12 November 2019

Fitness to Practise Final Hearing Decisions Audit

Executive summary

The HCPC's Quality Compliance Team (QCT) has conducted an audit of Final Hearing decisions, the purpose of which was to assess the quality of the decisions made and recorded by the HCPC's Practice Committees. The audit looked at 30% of decisions made between October and December 2018 and included decisions made by both the Conduct and Competence, and Health Committees. The audit identified that the majority of decisions met or exceeded the threshold standard for each of the key elements of the decision-making process.

In addition, the audit found that panels consistently provided clear reasons for their decision at each of the three stages of the decision-making process.

Decision

The Committee is asked to consider the update.

Resource implications

There are no resource implications arising from this update paper.

Financial implications

There are no financial implications arising from this update paper.

Appendices

Appendix 1 – Fitness to Practise Final Hearing Decisions Audit - January 2019.

Date of paper

06 November 2019

Quality Assurance Department

Fitness to Practise Final Hearing Decisions Audit (including Discontinuance and Consent) – January 2019

Summary

The Quality Compliance Team (QCT) conducted an audit of Final Hearing decisions, the purpose of which was to assess the quality of the decisions made and recorded by the HCPC's Practice Committees¹. The audit looked at 30% of decisions made between October and December 2018 and included decisions made by both the Conduct and Competence, and Health Committees.

The audit identified that the majority of decisions met or exceeded the threshold standard for each of the key elements of the decision-making process. The audit found that panels consistently provided clear reasons for their decision at each of the three stages of the decision-making process (facts, grounds and impairment). The audit also found that panels applied the Indicative Sanctions Policy correctly and explained their reasons for imposing the sanction they chose in 93% of decisions audited.

Overall the audit found that 87% of decisions audited met the threshold standard across all criteria. In addition, 73% of decisions audited also met the best practice standard criteria where applicable.

The audit did not identify any systemic issues or risks with the quality of decisions produced by the Practice Committees and as such no recommendations have been made in this report. We would encourage the FTP Department to share the findings of this audit with their partners as part of their ongoing feedback arrangements.

Further assurance of the quality of Final Hearing decisions is provided by the Professional Standards Authority's (PSA) review of all Final Hearing decisions and their feedback to the HCPC where they identify any concerns. In addition, FTP and Health and Care Professions Tribunal Service (HCPTS) staff are encouraged to refer

¹ There are three Practice Committees, the Health Committee, the Conduct and Competence Committee, and the Investigating Committee. The Health Committee and the Conduct and Competence Committee are responsible for considering and making decision at final hearings.

any concerns they have regarding individual Final Hearing decisions to the quarterly Decision Review Group (DRG). The DRG consider all PSA and staff referrals and feed back to Panels where they identify concerns with Final Hearing decisions. In addition the Tribunal Advisory Committee (TAC) has also requested that the findings from this audit are shared with them by FTP.

FINAL

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1. Introduction

- 1.1. In their Performance Review Reports for 2016/17 and 2017/18, the Professional Standards Authority (PSA) determined that the Health and Care Professions Council (HCPC) did not meet standards one, three, four, five, six and eight of the Standards of Good Regulation (SoGR) for Fitness to Practise (FTP).
- 1.2. In 2016/17, standard five was not met in part because, in the PSA's opinion, some cases had been discontinued in circumstances where a full hearing would have been in the public interest. In particular, the PSA expressed concern that discontinuance had been granted by panels in cases where there had been no "significant" change in the evidence available since the ICP made a 'case to answer' determination. The PSA also had concerns surrounding the brevity of decisions recorded by panels in some disposal by consent hearings.
- 1.3. The PSA also cited the concerns above in relation to discontinuance and consent processes when determining that the HCPC did not meet Standard eight of the SoGR.
- 1.4. In response, as part of the FTP Improvement Project changes were made to the Discontinuance and Consent² processes and the relevant FTP Operational Guidance (FOG) documents³. These changes were designed to provide greater clarity regarding the criteria cases must meet before they can be considered suitable for disposal by these means, as well as ensuring that cases are not disposed of by way of consent or discontinuance in circumstances where there is a wider public interest in proceeding to a final (contested) hearing.
- 1.5. In addition to changes to internal processes and guidance, the Health and Care Professions Tribunal Service (HCPTS) published updated versions of the Practice Notes Discontinuance of Proceedings and Disposal of Cases by Consent in March 2018. Again the changes made were designed to ensure panels fully considered the wider public interest before granting such applications.

² Consensual disposal includes consent to any of the sanctions available to a Practice Committee including entering a Voluntary Removal Agreement (VRA) to remove the registrant from the Register.

³ The FOGs were approved by the FTP Improvement Project on 3 September 2018.

- 1.6. In respect of the issues raised by the PSA regarding the quality of Final Hearing decisions, panel members receive ongoing training in order to support them with the decision-making process and decision drafting.
- 1.7. As part of the Quality Assurance Framework (QAF) 2018/19, the Quality Compliance Team (QCT) agreed with the FTP Management team to carry out a targeted audit to assess the quality of Final Hearing decisions (which includes decisions made in applications for discontinuance and disposal by consent).
- 1.8. As part of the audit, the following relevant PSA SoGR were considered:

5. The fitness to practise process is transparent, fair, proportionate and focused on public protection.
8. All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession.
9. All final fitness to practise decisions, apart from matters relating to the health of a professional, are published and communicated to relevant stakeholders.

2. Recommendation review

2.1. This is the first audit focused on the quality of the Final Hearing decisions. In future reports a summary of how recommendations from preceding reports have progressed will be included in this section.

2.2. In the last QCT audit of Discontinuance cases⁴ the following recommendation was made and accepted by the FTP Department:

QCTREC201700028: We recommend that the case management team conduct a thorough review of the discontinuance process in light of the findings of this report. This review should include the following:

- Ensuring that the process is clearly mapped;
- The roles and responsibilities of decisions makers are clearly defined and appropriate guidance is provided to assist the decision makers including practical examples;
- The purpose of any necessary approval stages are defined, including expectations as to any checks that should be completed;
- The purpose and expectations of any legal advice obtained are defined;
- Working alongside FTP Training Advisor to ensure that HCPC staff and partners are confident in their roles in the discontinuance process.

2.3. In response, the FTP Department reviewed and updated its process. The FOG Discontinuance of Proceedings was updated to reflect these changes. This FOG was approved by the FTP Improvement Project board on 3 September 2018. The updated process and FOG addressed each of the points set out in the recommendation. As such, this recommendation is closed.

2.4. In the last QCT audit of Consent cases⁵ the following recommendations were made and accepted by the FTP Department:

QCTREC201700001: Case Preparation and Conclusion (CPC) and Complex Cases Team (CCT) management may wish to review the Consent Order

⁴ Discontinuance of Proceedings Audit: March – September 2017

⁵ Disposal of Case by Consent Audit: March – August 2017

Approval and associated FOG to ensure that sufficient guidance is provided as to what information should be included in the approval form.

QCTREC201700002: CPC and CCT management may wish to review the Disposal of Cases by Consent FOG to ensure that it accurately reflects the approved process and that it provides clear unambiguous guidance for Case Managers and Case Team Managers. This review should take into consideration the findings of this report and any other feedback from QCT, Case Managers and other stakeholders.

QCTREC201700003: It may be beneficial for CPC and CCT management to review the guidance available for Case Managers in drafting conditions of practise orders to ensure that it is fit for purpose, and to work with the FTP Training Advisor to ensure those responsible for drafting such orders are appropriately trained.

QCTREC201700004: The CPC and CCT management team may wish to include additional reference to the Watchlist within the Disposal of Consent FOG and consider issuing a reminder to staff on the purpose of the Watchlist and the information which needs to be included.

2.5. In response, the FTP Department reviewed and updated its process. The FOG Disposal of Cases by Consent was updated to reflect the changes and approval forms and other tools designed to assist operational staff were either updated or introduced. The FOG was approved by the FTP Improvement Project board on 3 September 2018. The updated process and FOG addressed each of the points set out in the recommendation. As such, these recommendations are closed.

3. Guidance review

3.1. As part of the preparatory work for this audit the following documents / materials were reviewed.

- Practice Note - Drafting Fitness to Practise Decisions
- Practice Note - Finding Impairment
- Practice Note - Discontinuance of Proceedings
- Practice Note - Disposal of Cases by Consent
- Indicative Sanctions Policy
- FOG – Discontinuance of Proceedings
- FOG – Disposal of Cases by Consent
- Discontinuance Consideration form
- Discontinuance Approval form
- Disposal by Consent – Consideration form
- Consent Application Approval form

3.2. The findings of our review of those documents most directly related to the quality standards, and which informed the criteria for this audit, are set out below. All four Practice Notes were last updated in March 2017.

Practice Note – Drafting Fitness to Practise Decisions

3.3. This Practice Note (PN) provides guidance to panels (and those appearing before them) on what a ‘reasoned’ decision should include, including providing ‘adequate’ logical explanations as to how and why the Panel reached its decision at each stage.

3.4. The PN sets out the expectation that written decisions should be self-contained, ie they “...should enable readers, without the need to refer to any other materials, to understand the nature and seriousness of the issues before the Panel, its findings and decision and the reasons for them.”

3.5. The PN goes on to give guidance on the key aspects that a reasoned decision should include. These are as follows.

- The allegations or a description of them.
- The Panel’s findings on material questions of fact.
- Whether the facts found proved amount to the statutory ground(s) of the allegation and why.
- Whether or not fitness to practise is impaired and why.

- Any sanction that was imposed and why it was appropriate.
- Any relevant procedural issues.

3.6. The PN also sets out that panels should write their decision in a concise manner and that they should be written in plain English.

Practice Note – Finding Impairment

3.7. This PN provides guidance to panels (and those appearing before them) on those factors panels should consider when making a decision about whether a registrant's fitness to practise is currently impaired.

3.8. The PN includes reference to the relevant case law, and also stresses the importance of addressing both the personal and public components of impairment.

Practice Note – Discontinuance of Proceedings

3.9. After a case has been referred for a final hearing by the Investigating Committee, further assessment of the evidence that has been gathered since that decision may indicate that there is no longer a realistic prospect of the HCPC being able to establish all or part of the allegation. When this is the case, it may be appropriate for the HCPC to apply to discontinue all or part of the allegation. All applications for discontinuance must be heard by a panel of the relevant Practice Committee (Health Committee or Conduct and Competence Committee).

3.10. This PN provides panels (and those appearing before them) guidance to assist them in ensuring that cases are only discontinued (in whole or in part) where it is appropriate to do so.

3.11. The PN includes reference to appropriate case law and sets out what the panels considering applications for discontinuance should expect from the HCPC's skeleton argument. The PN also provides guidance on the level of enquiry panels should undertake when deciding on such applications and specifically the need to consider the wider public interest.

Practice Note – Disposal of Cases by Consent

- 3.12. Disposal by consent is a process by which the registrant and the HCPC can seek to conclude a case without the need for a contested final hearing. The registrant in these cases must admit the substance of the allegation and that their fitness to practise is impaired. The registrant can either request to be removed from the HCPC register, or they can agree to a sanction proposed by the HCPC.
- 3.13. This PN provides panels (and those appearing before them) guidance to assist them in ensuring that only appropriate cases are disposed of by way of consent, including the need to ensure there is no detriment to the wider public interest.
- 3.14. The PN also includes (as an annex) the HCPC Policy on Consensual Disposal which provides more detail on the requirements which must be met before the HCPC can consider disposing of a case by way of consent.

Indicative Sanctions Policy (ISP)

- 3.15. This Policy is designed to assist HCPC Practice Committee panels in making fair consistent and transparent decisions regarding what sanction (if any) to impose on a registrant whose fitness to practise is found to be impaired.
- 3.16. The ISP provides guidance on ensuring that any sanction imposed by a panel is one that addresses concerns raised in the facts that have been proved, and which have led to the finding of impairment on the personal component; and is also one that addresses the wider public interest⁶. It includes guidance on proportionality, taking into account insight and remorse, as well as giving specific guidance in relation to criminal matters.
- 3.17. The ISP also sets out for panels the factors they should look for in a case that would indicate it is suitable / unsuitable for each available sanction, including examples.

⁶ Public interest considerations include the protection of service users, the declaration and upholding of proper standards of behaviour, and the maintenance of public confidence in the profession.

4. Audit approach and methodology

4.1. Audit type

4.1.1. This audit is an output focused audit, the purpose of which was to assess the quality of Final Hearing decisions made and recorded by the HCPC Practice Committees. In particular the audit was designed to determine whether written decisions are clear and consistent.

4.2. Quality Standards

4.2.1. As set out in the FTP Quality Assurance Framework (QAF) for 2018/19, each audit will define a threshold standard of quality which is set at the level required to satisfy the PSA that the FTP Department meets the relevant standards for good regulation. Where applicable, best practice standards will also be defined which will exceed the threshold standard, and serve to assist the Department with continuous improvement activities.

4.2.2. The quality standards are based on the guidance included within the HCPTS Practice Notes and the expectations set out in panel training events. The threshold standards are set out below. Where applicable, the best practice standard is included in **bold**.

- The decision includes the allegations against the registrant. **If the allegations are lengthy, complex or technical the panel provide an overview.**
- The Panel set out if the facts are proved or not, including how and why they came to their decision.
- The Panel set out if the facts amount to the ground(s) alleged⁷, including how and why they came to their decision.
- The Panel set out their findings on impairment, including reference to both the personal component and any wider public interest considerations.
- Any sanction is in line with the Indicative Sanction Policy and where not, the Panel provide clear reasons for diverting from the policy.

⁷ The allegation must set out that the registrant's fitness to practise is impaired on one or more of the following grounds: misconduct, lack of competence, conviction or caution, physical or mental health, a determination by another health or social care regulatory or licensing body. These grounds are set out in The Health and Social Work Professions Order 2001.

- The Panel's reasoning is consistent at each stage (facts / grounds / impairment).
- Only relevant factors are considered at each stage.
- **The Panel provide clear reasons for any assessment on the credibility of any witness(es).**
- The decision is self-contained, so that without any other materials the average person is able to understand the case before the Panel, the decision it reached and why it did so.
- **The decision is written in plain English and in clear and unambiguous terms, using short sentences and short paragraphs.**

4.3. Sample selection and methodology

- 4.3.1. The purpose of this audit was to assess the quality of substantive decisions made and recorded by the HCPC Practice Committees. As mentioned in paragraph 1.2 the PSA have previously raised concerns about decisions made by HCPC Practice Committees in approving applications for Discontinuance and Consent. As such, the audit included examples of these decisions within the sample pool.
- 4.3.2. A total of 30 decisions made between October and December 2018 were audited. This represented 31% of substantive decisions made within this period. The sample pool included a combination of discontinuance in full, disposal by consent (voluntary removal agreement and consent to sanction) and contested final hearings. The decision audited included those made by both the Conduct and Competence and Health Committees.
- 4.3.3. To ensure consistency when assessing the quality of decisions, the sample did not include part-heard hearings that reconvened within the period October to December 2018.
- 4.3.4. The cases were allocated between two members of the QCT⁸ to audit. The full criteria is set out in appendix 1.

⁸ Quality Compliance Manager and Quality Compliance Officer.

4.3.5. Following the completion of the audit, the qualitative findings in relation to 100% of the decisions were independently reviewed by two members of the QCT to ensure consistency.

5. Audit Findings

The following sections set out the findings of the audit against the quality standards detailed in section 4.2.

5.1. Including the allegation in the decision / where applicable, decision includes an overview of complex or lengthy allegations (best practice)

5.1.1. The PN – Drafting Fitness to Practise Decisions states that the written decision should include “the allegations or a description of them”. The PN does not specify whether this needs to be the allegation referred to the Practice Committee or the allegation they ultimately make their decision on. In other words, whether they need to include the allegation referred by the Investigating Committee Panel (ICP) or not.

5.1.2. The audit noted that of the 30 decisions reviewed, the panels had included the full allegation referred to it by the ICP in 27 (90%) cases (see figure 1).

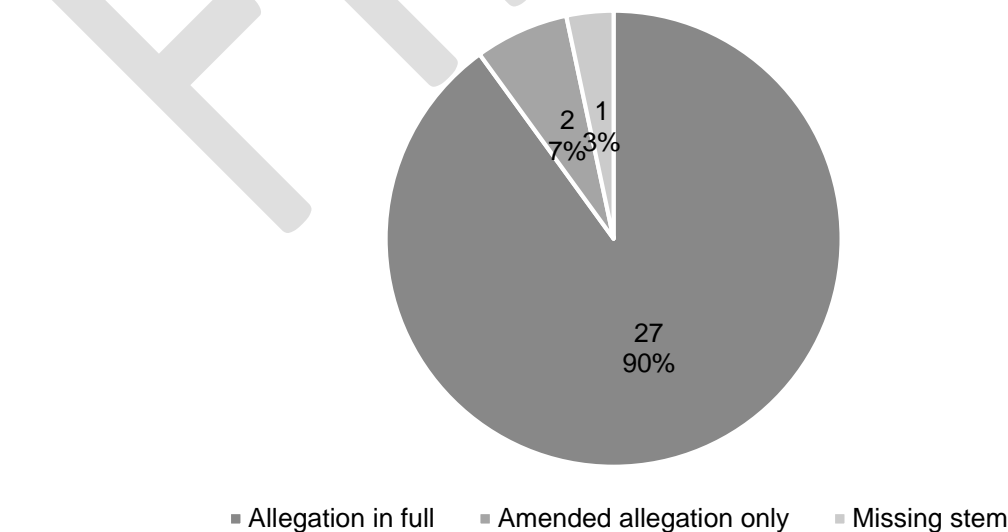


Figure 1: Allegations included in decision

- 5.1.3. Of the three cases where the full allegation was not included, two⁹ decisions only included the final (amended) allegation which the Panels considered, and a description of the amendments to the allegations which they had agreed to. Given these cases included a proxy description of the allegation referred by the ICP, and the lack of specificity in the PN, it was determined that these cases met the threshold standard for this aspect of the decision.
- 5.1.4. In the third case¹⁰, the Panel have included the amended allegation but have omitted the stem of the allegation (the opening statement included within the allegation which is used to identify the registrant's profession and confirm they were registered at the relevant time) which was referred by the ICP from their decision. Again, given the lack of specificity in the PN, and that the information within the stem was referenced in other sections of the decision, it was determined that this case also met the threshold standard for this aspect of the decision.
- 5.1.5. Overall, 100% of cases met the threshold standard for this aspect of the decision.
- 5.1.6. The best practice standard set out in 4.2.2 is met where, in cases where the allegations being considered are lengthy, technical or complex, the Panel provide an overview of the allegation to assist the reader. The audit noted four cases¹¹ where the allegations were lengthy, technical or complex. In three¹² of these cases (75%) the Panels had provided an overview of the allegation and therefore met the best practice standard for this aspect of the decision.

5.2. Explaining decisions at facts, grounds and impairment

- 5.2.1. As set out in the PN – Drafting Fitness to Practise Decisions, panels are expected to provide clear explanations of how and why they reached their decisions at the facts, grounds and impairment stages of their decision-making. This section sets out the audit findings in respect of these three stages.

⁹ FTP**** and FTP****

¹⁰ FTP****

¹¹ FTP****, FTP****, FTP**** and FTP****

¹² FTP****, FTP**** and FTP****

5.2.2. Of the 30 decisions audited, ten related to consent or discontinuance applications. In the six consent (including VRA) cases, the Panels set out that the registrant had admitted the allegation against them and therefore on this basis the facts, grounds and impairment were found proved. In the four discontinuance applications, the HCPC's application was that there was no evidence to support / new evidence to refute the allegations originally made against the registrant. Therefore, the Panels were not required to make any findings in respect of those facts, grounds or impairment alleged.

5.2.3. As such, only the decisions within the sample pool which related to the 20 contested final hearings required the Panels to set out the reasons for their findings at facts, grounds and impairment.

5.2.4. Where a panel finds none of the facts proved, there is no requirement for them to consider the next stage in the decision-making process (grounds). Equally, if a panel does not find the grounds proved, there is no requirement for them to consider the next stage (impairment).

Facts

5.2.5. The audit found that the Panel had explained how and why it had reached its finding on each of the facts alleged in 19/20 cases (see figure 2). As such 95% of decisions met the threshold standard for this aspect of the decision.

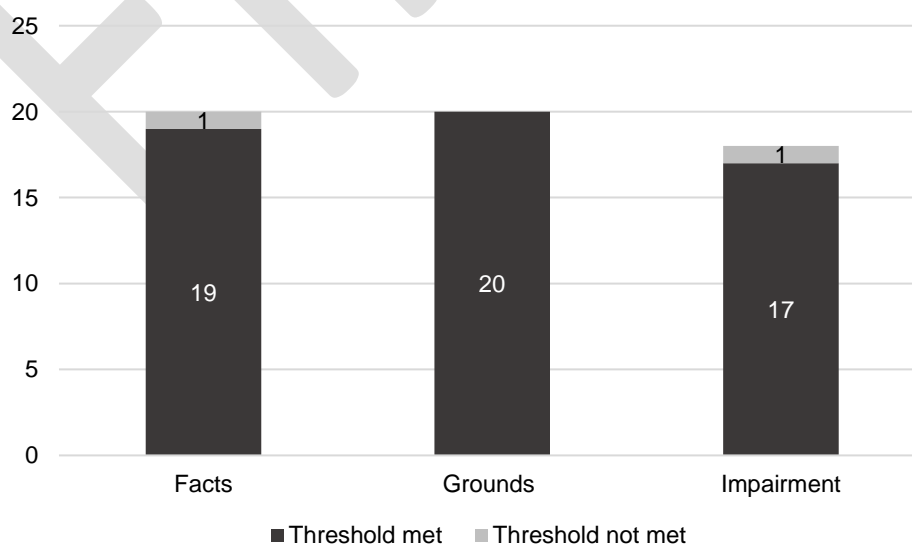


Figure 2: Quality of reasons at each stage

5.2.6. In the one case¹³ that did not meet the threshold standard, the Panel dealt with a number of the factual particulars of the allegation collectively. Whilst they explained ‘why’ they reached their decision for some of these, they did not clearly explain how they reached their decision for others.

Grounds

5.2.7. The audit found that the Panel had set out if the facts amounted to the ground(s) alleged, and provided reasons how and why they reached this decision in all 20 of the cases where this was relevant (see figure 2). As such this aspect of the threshold standard was met in 100% of cases.

Impairment

5.2.8. The audit found that the Panel had set out their finding on impairment including their considerations against both the personal and public components of impairment in 17/18 cases where this was required ie those cases where the Panel had found at least one of the alleged grounds proved. As such 94% of cases met the threshold standard for this aspect of the decision.

5.2.9. In the one case¹⁴ that did not meet the threshold standard, the Panel set out the test that they needed to apply, but did not explain how they had applied this test specifically to the misconduct they had found proved, and therefore why it did not amount to impairment.

5.3. Sanctions in line with policy

5.3.1. The audit found that in 14/15 cases where the Panel had imposed a sanction, the sanction chosen was in line with the Indicative Sanctions Policy (ISP). As such, 93% of cases met the threshold standard for this aspect of the decision.

5.3.2. In the one case¹⁵ that did not meet the threshold standard, the Panel imposed a six month Suspension Order despite their finding that the registrant had shown no insight or willingness to address the failings. The Panel determined the risk of repetition was high. The ISP states that

¹³ FTP*****

¹⁴ FTP*****

¹⁵ FTP*****

suspensions for a short period of time (ie less than a year) may be appropriate “to facilitate a staged return to practice” but that “if the evidence suggests that the registrant will be unable to resolve or remedy his or her failings then striking off may be the more appropriate option”. It also states that “striking off should be used where there is no other way to protect the public, for example, where there is a lack of insight, continuing problems or denial. A registrant’s inability or unwillingness to resolve matters will suggest that a lower sanction may not be appropriate.”

5.3.3. The Panel discounted a strike off order on the basis that “...the current circumstances do not merit the ultimate sanction, and to do so would be disproportionate”. This reasoning for their decision is insufficient for the reader to understand why, given the Panel’s findings at impairment, and the guidance set out in the ISP, a strike off order would be disproportionate.

5.4. Consistency of reasons throughout the decision and relevant factors considered at each stage

5.4.1. The PN - Finding Impairment sets out that in determining whether fitness to practise is impaired, panels should apply a sequential approach. The written decision also needs to reflect this approach.

5.4.2. It is important that the Panel’s reasoning at each stage of the written decision is consistent and that they only consider relevant factors at each stage of their decision. This will assist the reader in clearly understanding the Panel’s reasons for their decision at each stage.

5.4.3. The audit noted one of the 30 decisions where the Panel’s reasoning was not consistent at all stages. This case¹⁶ is referenced in paragraphs 5.3.2 – 5.3.3. As such 97% of decisions met the threshold standard for this aspect of the decision.

5.4.4. The audit also noted that Panels had documented their consideration of only relevant factors at each stage of their decision-making in all cases. As such this aspect of the threshold standard was met in 100% of cases.

¹⁶ FTP*****

5.5. Assessment of witnesses (best practice standard)

5.5.1. There were 16/20 cases within the audit where the Panel considered evidence from witnesses and / or used this evidence to assist them in establishing the facts in the case. In these cases an assessment of the witness(es) would assist the reader in clearly understanding why the Panel reached the decisions it made and would meet the best practice quality standard.

5.5.2. Of the 16 cases, the Panel had provided clear reasons for their assessment of the witnesses in 12¹⁷ cases (see figure 3). As such the best practice standard for this element of the decision was met in 75% of cases.

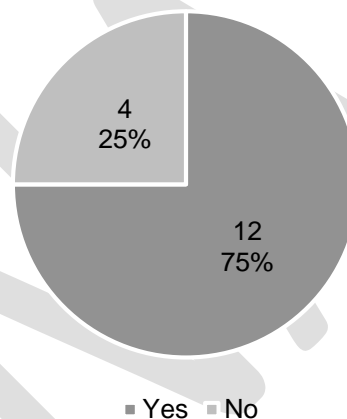


Figure 3: Clear reason provided for assessment of witness(es)

5.5.3. In the four cases¹⁸ that did not meet the best practice standard, the Panel had either not provided reasons for their assessment of all the witnesses in the cases, or had merely stated the witness was “credible”, “honest”, “reliable”, or that they preferred the account of a particular witness without providing reasons for their assessment / conclusions.

¹⁷ FTP****, FTP****, FTP****, FTP****, FTP****, FTP****, FTP****, FTP****, FTP****, FTP****, FTP**** and FTP****

¹⁸ FTP****, FTP****, FTP**** and FTP****

5.6. Clarity of written decision – self-contained / plain English used (best practice)

5.6.1. As mentioned in paragraphs 3.4 and 3.6, the PN Drafting Fitness to Practise Decisions sets out that the written decision should be written in a way that enables the reader to understand the nature and seriousness of the cases, the Panel's decision and reasons for them without having to refer to other materials. In other words the decision needs to be self-contained.

5.6.2. The audit identified two¹⁹ of the 30 decisions which were not self-contained and therefore did not meet the threshold standard for this aspect of the decision. Both of these decisions relate to applications for disposal by means of consent.

5.6.3. In the first case²⁰, when considering impairment the decision states:

"The Panel determined that the Registrant has demonstrated insight and remediation and that the Registrant was unlikely to repeat the misconduct again."

5.6.4. However the Panel has not set out how they reached this determination. This is important, as in the decision they suggest that a finding of impairment is only required on public interest grounds. As such, if the registrant is not impaired on the personal component, then this needs to be clearly explained so that the reader is able to appreciate why the caution order proposed was appropriate.

5.6.5. In the second case²¹ (an application for VRA), the decision provided by the Panel was very brief. They did not provide comment on the nature of the allegation or whether it amounted to misconduct. There is little explanation as to why, in the circumstances of the case, there is no public interest in having a fully-contested public hearing. Furthermore, the Panel note that "in her submission [the Presenting Officer] said that what occurred could properly be described as an isolated incident in a lengthy and otherwise unblemished career, with low risk to the public". However the Panel do not provide their assessment of this submission. This is important given the allegation faced by the registrant was, in part,

¹⁹ FTP***** and FTP*****

²⁰ FTP*****

²¹ FTP*****

that they had failed to ensure the training and competency of staff under their responsibility for a period of 12 and three years respectively.

5.6.6. Overall, 28/30 (93%) of the decisions audited were self-contained and therefore met the threshold standard (see figure 4).

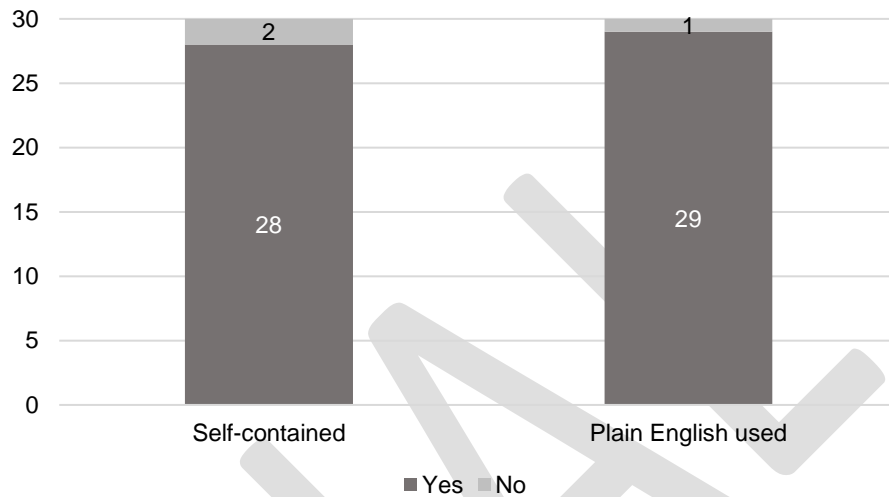


Figure 4: Clarity of written decision

5.6.7. The audit also found that 29/30 decisions were written in plain English, in clear unambiguous terms, and using short sentences and paragraphs. As such, 97% of the decisions audited met the best practice standard for this aspect of the decision.

5.6.8. In the one case²² that did not meet this best practice standard, the Panel included several paragraphs quoting the Presenting Officer's submission including technical and complex information, and also included a rather lengthy excerpt of (relevant) case law.

²² FTP*****

6. Conclusion

6.1. The audit identified that for each aspect of the quality standard, the majority of cases met or exceeded the threshold standard (see figure 5)

	Threshold standard	Threshold not met
Decision includes the allegation	100%	0%
Explanation of decisions (facts)	95%	5%
Explanation of decisions (grounds)	100%	0%
Explanation of decisions (impairment)	94%	6%
Sanction in line with policy	93%	7%
Consistent reasoning	97%	3%
Relevant factors considered at each stage	100%	0%
Decision is self-contained	93%	7%

	Best practice standard
Where applicable, decision includes an overview of complex or lengthy allegations	75%
Reasons provided for the assessment of witnesses	75%
Plain English used	97%

Figure 5: Summary of audit findings – percentage of decisions assessed as meeting threshold / best practice standards

6.2. As a result of the findings set out in section 5, 26/30 (87%) of the decisions audited met each of the elements in the threshold standard. Of these, 22/30 (73%) also met each of the elements of the best practice standard where applicable.

6.3. The audit did not note any issues with the brevity of decisions made by panels considering discontinuance and consent applications, an issue which has previously been raised by the PSA.

6.4. The results of this audit are also consistent with the low volume of feedback provided by the PSA during this period. The PSA provided feedback on just four final hearing decisions (4%) made by Practice Committees in October – December 2018. The feedback was reviewed by the FTP Department, FTP

QCT and the DRG. Feedback to Final Hearing Panels was provided accordingly.

- 6.5. The results of the audit show that the Practice Committees are consistently able to clearly articulate their decisions and the reasons for them. The audit also identified that panels are also demonstrating best practice in ensuring that the decisions are written in plain English, and that complex or technical issues are explained and summarised in a way that allows the reader to understand them.
- 6.6. The findings also demonstrate that panels are consistently applying the guidance set out in the HCPC practice notes and the Indicative Sanctions Policy.
- 6.7. Given the findings of the audit, no formal recommendations have been made. However we would encourage the FTP Department to share the findings of this report with the HCPC partners as part of their ongoing feedback arrangements. The examples of best practice noted in this audit may also prove useful for future training events.

Appendix 1 – Audit criteria

Audit Criteria
Does the decision include the allegation?
Does the decision contain an overview if the allegations are lengthy, complex or technical?
Does the decision set out a finding on each of the facts, including how and why each finding was made?
Does the decision provide clear reasons for any assessment of the witness(es) credibility?
Does the decision set out if the facts amount to each of the grounds alleged, including how and why the decision was made?
Does the decision set out the Panel's finding on impairment, including consideration on both the public and personal component?
Is the Panel's reasoning consistent at each stage of the proceedings?
Are only the relevant factors considered at each stage?
Is the decision self-contained?
Is the sanction in line with the Indicative Sanctions Policy?
If no, have the Panel provided a clear reason for diverting from it?
Is the decision written in plain English, and in clear and unambiguous terms, using short sentences and paragraphs?