

THE HEALTH PROFESSIONS COUNCIL

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CONDUCT AND COMPETENCE COMMITTEE

MINUTES of the eleventh meeting of the Conduct and Competence Committee held at **12:00pm on Tuesday 12 October 2004** at Park House, 184 Kennington Park Road, London, SE11 4BU.

PRESENT:

Dr S Yule (Chairman)
Mr K Ross (Deputy-Chairman)
Ms H Davis
Professor C Lloyd
Mr G Sutehall

IN ATTENDANCE:

Professor N Brook (President)
Miss S Adams (Case Manager, Fitness to Practise)
Miss S Butcher (Committee Secretary)
Miss K Johnson (Director of Fitness to Practise)
Miss N O'Sullivan (Secretary to Council)

Item 1.04/11 APOLOGIES FOR ABSENCE

- 1.1 Apologies for absence were received from the following Conduct and Competence Committee members; Dr G Beastall, Mr R Clegg, Dr R Jones, Ms J Manning, Miss P Sabine and Mrs B Stuart.

Item 2.04/12 APPROVAL OF AGENDA

- 2.1 The Conduct and Competence Committee approved the agenda.

Item 3.04/13 MINUTES

- 3.1 It was agreed that the minutes of the tenth meeting of the Conduct and Competence Committee be confirmed as a true record and signed by the Chairman subject to the following amendments;

Item 3.1.1 **7.1 Interim Orders**

The Committee ‘agreed’ the practise note for ratification by Council

Item 3.1.2 **10.1 Any Other Business**

10.2 ‘The Committee agreed to recommend to Council that the Director of Fitness to Practise and all persons appointed as HPC Case Managers be appointed as authorised persons for the purpose of article 25(1) of the Health Professions Order 2001.’

Item 4.01/14 **MATTERS ARISING**

4.1.1 **6.7. Project Plan**

Miss Johnson reported that a project plan was currently under development which would schedule the work of the Committee on an annual basis.

4.1.2 **6.8 Review of Standards of Conduct, Performance and Ethics (SCPE)**

The Committee noted that the review process of the Standards of Conduct, Performance and Ethics (SCPE) was an ongoing task

4.1.3 **6.13 Strategic Policy**

The Committee noted a paper on ‘Managing Your Fitness to Practise’ would be presented at the next Education and Training Committee meeting on Wednesday 13 October 2004.

Item 5.04/15 **CHAIRMAN’S REPORT**

5.1.1 The Chairman reported that the Council ‘Away Day’ which had taken place in Scotland on the 6th and 7th October 2004 for Council members had been very useful and informative. The Committee noted that the Fitness to Practise Chairmen had given a presentation to Council on the functions of these committees, which had illustrated the inter-relationships between the three committees and the procedures followed. The presentations had been well received. The Committee agreed that the presentations be made available to all via the Councils members’ section of the HPC website.

Action: SB

5.1.2 The Chairman reported that Ms J Stone, Deputy Director of ‘The Council for Healthcare Regulatory Excellence’ (CHRE formally known as CRHP) made a presentation at the Partners’ Conference held in Manchester 23rd and 24th September 2004. The Committee noted that CHRE had referred a decision of an HPC Fitness to Practise panel to the High Court. The Committee also noted that this experience could provide useful feedback to the HPC.

Item 6.04/16 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 6.1** The Committee received the Director of Fitness to Practise Report.
- 6.2** Miss Johnson reported the various orders that had been imposed by the Fitness to Practise panels. The Committee noted that the Conduct and Competence Committee had considered 60 cases so far. This number included 14 cases which had required a review of either a suspension order or a conditions of practise order.
- 6.3** Miss Johnson reported that there were 277 active registration appeal cases. In September 33 cases were heard by Registration Appeal Panels. Dates for a further 64 appeals cases had been arranged. The Committee noted that it was a requirement of the Health Professions Order 2001 that Registration Appeals Panels were chaired by a member of Council. Under Article 37(8a) of the Order an appellant had a right to have an appeal in the U.K. country in which the registered address of the person concerned is situated. An appellant from Northern Ireland had exercised this right and therefore the next Registration Appeals Panel was to be heard in Belfast.
- 6.4** The Committee noted the significant number of appeals that had been received. The Committee therefore requested clarification on the procedures employed when an application for registration was made. Miss Johnson reported that the Fitness to Practise team was currently dealing with a backlog of appeals from December 2003 but anticipated with the more robust processes now in place that the number of registration appeals received would decrease. The Committee noted that dates had been set for panel training on the 25th and 26th October, 2nd and 3rd December and further dates had been established on the 12th and 13th January 2005. The Committee commended the improved and revised documentation provided by the Fitness to Practise team which combined with review training for registration assessors would help to resolve the backlog of registration appeal hearings.
- 6.5** The Committee noted the Flow Charts provided which illustrated the processes undertaken for public hearings and in dealing with allegations and anonymous allegations and also that of the Investigating Committee. These reflected the Fitness to Practise teams work since April 2004. The Committee also noted the statistics provided on the number of cases received by profession. Operating Department Practitioner's (ODP's) would be added to the list as of their entry to the register on the 18th October 2004. The statistics given for the panel members by profession indicated that clinical scientists had not been requested to attend many panel hearings to date. The Committee noted this was by virtue of the fact

that HPC had conducted only a few hearings which required panel members from that professional group.

- 6.6** The Committee noted that a few amendments to the flowcharts were needed but thanked Miss Johnson and the Fitness to Practise team for the overall statistics produced which were found to be very helpful in assisting Committee members in the carrying out of its work.

Item 7.04/17 SANCTIONS

- 7.1** The Committee received a paper for discussion/approval from the Fitness to Practise Director.
- 7.2** The Committee noted that the practise note on sanctions had been revised and now included further guidance on the drafting and review of conditions of practise orders. Miss Johnson reported that the Health Committee had approved the practise note at its meeting on the 22nd September 2004 and requested the Conduct and Competence Committee do the same so that it could be put to Council on the 7th December for final ratification.
- 7.3** The Committee noted that the wider remit of sanctions now available to the Fitness to Practise panels was extremely useful in assisting members with the decision making process which was now more informed and better structured.
- 7.4** The Committee discussed the difficulties of imposing conditions of practise when registrants failed to attend their own hearings. The Committee was advised that registrants could not be forced to attend even though it was acknowledged that it was in their interest to do so. The Fitness to Practise team would be producing brochures which would give clearer guidance on the hearings' processes. It was anticipated that this would encourage a higher degree of attendance by registrants. The Committee noted that conditions of practise had to be robust in order to be imposed successfully and that legal assessors were available if advice was needed on the drafting of conditions. The Fitness to Practise team was unable to get involved in this process as to do so was contrary to the Health Professions Order 2001. The Committee was advised that further training could be arranged for panel members and Chairmen in order to clarify procedures.
- 7.5** The Committee recommended that the practise note included the fact that legal assessors were available if advice was needed on the drafting of conditions. The Committee also discussed the scenario whereby registrants could apply for a review of their conditions and agreed that this should be made more explicit in the document. Miss Johnson advised the

Committee that instead of amending the sanctions document a practise note on conditions would be drafted for their approval at the next meeting.

Action: KJ

- 7.6 The Conduct and Competence Committee agreed that the practise note on sanctions guidance be approved and referred onto Council for final ratification.

Item 8.04/18 MANAGING YOUR FITNESS TO PRACTISE

- 8.1 The Committee received a paper to note. In the absence of the Communications Officer this was presented by the Fitness to Practise Director.
- 8.2 The Committee was advised that HPC's disabilities, health and registration policy recommended that Council produced guidance for registrants on managing their fitness to practise. This had been expanded to cover areas beyond health and disability, by providing information for employers and a guide to 'scope of practise'. The Committee noted that the paper would be taken to the Education and Training Committee who would be asked to agree to a consultation on this document.
- 8.3 The Committee noted that the paper was of interest and thanked Miss Johnson for reporting the matter in the absence of Miss Tripp who had overseen the project.

Item 9.04/19 CHRE – COUNCIL FOR HEALTHCARE REGULATORY EXCELLENCE

- 9.1 The Committee received a paper for note from the Fitness to Practise Director.
- 9.2 The Committee was advised of a recent high court judgement that highlighted the issues HPC might face if a case was found to be 'under prosecuted' and if a sanction was judged as 'unduly lenient' by 'The Council for Healthcare Regulatory Excellence' (CHRE formally known as CRHP). CHRE was set up in 2003 to promote best practise and consistency in the regulation of healthcare professions by 9 regulatory bodies.
- 9.3 The Committee was advised that 4 cases had been referred to the High Court under a section 29 order by CHRE. The Committee noted that the rationale behind a decision must be made very clear when it was published. The Committee noted that advice could be sought from the legal advisor who was present at a hearing.

Item 10.04/20 ALLEGATIONS

- 10.1** The Committee received a paper for note from the Fitness to Practise Director.
- 10.2** Miss Johnson reported that the paper on allegations set out the form in which Council accepted allegations and what processes would be followed in accepting anonymous allegations. The Committee was advised that the Investigating Committee had approved the document at its meeting on 23rd September 2004 and had recommended the paper to the Council for ratification at its next meeting.
- 10.3** The Committee noted that the paper was of interest and highlighted the procedure by which an allegation/anonymous allegation was accepted.

Item 11.04/21 ROLE OF THE CASE MANAGER/HEARING OFFICER

- 11.1** The Committee received a paper for note from the Fitness to Practise Director.
- 11.2** Miss Johnson reported that in order to assist with the smooth running of HPC fitness to practise panels the HPC case manager/hearing officer had assumed a more active role. The Committee noted the responsibilities of the case manager/hearing officer had taken on with regard to the Investigating panel, interim order cases and final hearings. Miss Johnson reported that the case manager/hearing officer role had been made clear on all Investigating panel documentation so far and that the Conduct and Competence and Health panel paperwork would follow shortly.
- 11.3** The Committee was advised that female Muslim registrants giving evidence at a hearing should be sworn by male case managers/hearing officers. Miss Johnson reported that she had also sent a male case manager/hearing officer to purchase a Koran so that Muslim registrants may be sworn in appropriately.
- 11.4** The Committee noted that as the role of the case manager/hearing officer had been more clearly defined this would help enormously with the effective processing of cases.

Item 12.04/22 INFORMATION FOR PANEL CHAIRS

- 12.1** The Committee received a paper for note from the Fitness to Practise Director.

- 12.2** Miss Johnson reported that according to the Procedural Rules of Council 2003, the Conduct and Competence/Health/Investigating Committee hearings (interim orders and full hearings) must be conducted in a certain way. The paper presented illustrated the procedures the Chair should adopt at panel hearings.
- 12.3** The Committee discussed the paper and noted that it set out very useful guidelines on how to present a case. The Committee agreed that it would be useful if the Fitness to Practise Director produced in a crib sheet that could be easily referred to in addition to the current document. Miss Johnson reported that the paper would also be taken to the Legal Assessor's Review Day to be held on 24 November 2004.

Action: KJ

Item 13.04/23 INFORMATION FROM OPINION LEADER RESEARCH

- 13.1** The Committee received a paper for information from the Fitness to Practise Director.
- 13.2** Miss Johnson reported that the company Opinion Leader Research (OLR) had been commissioned to undertake an evaluation of the fitness to practise processes. This research involved a group of panel members who had been convened on the 20th August 2004 to discuss the evaluation of the HPC fitness to practise hearings process. The findings of this had been presented at the Partner's Conference in Manchester.
- 13.3** The Committee was advised that the members involved had been chosen because of their experience and the knowledge that they could bring to the evaluation process. The Committee noted that the sample used was small but agreed that the research would be a useful indicator of the types of queries that could be received in the future by HPC.

Item 14.04/24 LIST OF UPCOMING PAPERS

- 14.1** The Committee received a paper for information from the Fitness to Practise Director.
- 14.2** The Committee noted the following upcoming papers: Self-referrals, Witness Support and Restorations. The Committee was advised that a Paper on Self-Referrals had been referred to the Education and Training Committee meeting scheduled for 24th November 2004 for its approval and would then be taken to Council for final ratification.

Action: SB/KJ

Item 15.04/25 ANY OTHER BUSINESS

- 15.1** The Conduct and Competence Committee noted that part of its role under Article 21 was to review the Code of Conduct, Performance and Ethics that outlined the standards expected of the registrants. The Committee agreed that their function as a group was on a strategic level as opposed to an operational one. The Committee therefore agreed that the next meeting scheduled for Tuesday 16th November 2004 would be used as a brainstorming session, reviewing matters of strategy. Relevant issues would be discussed further at the February 2005 meeting of the Committee.
- 15.2** The President presented a booklet produced by the Nursing and Midwifery Council (NMC) 'Guidelines for Records and Record Keeping' and recommended that this was reviewed for further strategic ideas. The Committee agreed that similar publications from other healthcare regulators would be sought to assist in the production of this work.

Action: SB/KJ

Item 16.04/25 DATE & TIME OF NEXT MEETING

- 16.1** The next meeting of the Conduct and Competence Committee would be held at 11:00am on Tuesday 16th November 2004.
- 16.2** Further meetings would be held on the following date:
Tuesday 15th February 2005