

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the sixteenth meeting of the Conduct and Competence Committee held at **11:00am on Wednesday 16th November 2005** at the Park House, 184 Kennington Park Road, London, SE11 4BU.

Mr K Ross (Chairman)
 Mrs M Clark-Glass
 Ms H Davis
 Professor C Lloyd
 Mr P McFadden
 Ms H Patey
 Mr D Proctor
 Miss P Sabine

IN ATTENDANCE:

Miss E Bowman, Team Administrator
 Ms S Butcher, Secretary to Committees
 Miss K Johnson, Director, Fitness to Practise
 Miss L McKell, Partners Manager
 Mr M Seale, Chief Executive

Item 1.05/82 INTRODUCTION AND WELCOME

1.1 The Chairman welcomed all non-committee members who were attending.

Item 2.05/83 APOLOGIES FOR ABSENCE

2.1 Apologies for absence were received from the following committee member; Dr G Sharma.

Item 3.05/84 APPROVAL OF AGENDA

3.1 The Conduct and Competence Committee approved the agenda subject to one alteration. It was agreed that it would be more appropriate to discuss item 8 'Requesting Patient Information' after item 11 'Introduction to the Case Management Strategy'.

Item 4.05/85 MINUTES

- 4.1 It was agreed that the minutes of the fifteenth meeting of the Conduct and Competence Committee be confirmed as a true record and signed by the Chairman subject to the following amendment:
- 4.2 7.6 correct the spelling of protocol to protocol and again in 11.2.
- 4.3 7.10 change the word ‘‘by’ the public’ to ‘‘from’ the public’.

Item 5.05/86 MATTERS ARISING

- 5.1 Item 6.1.2 – Matters Arising – Foster and Donaldson Review Groups
The Committee noted that six position papers and a presentation given at the Foster and Donaldson reference group meeting held on the 8th November 2005 were to be provided for Council’s review at its next meeting on 6th December 2005. It was anticipated that the final document would be made public in the second week of January 2006 and accessible via the Department of Health website. The Committee recommended that the document was also put on the Health Professions Council (HPC) website and distributed to all Council and Committee members for their information. It was likely that the recommendations from the Foster and Donaldson Review groups would impact on the HPO Section 60 Orders but the legislation would not change for at least another two and a half years.

Action: MJS

- 5.2 6.1.3 - Matters Arising - Fitness to Practise Chairmans Meeting
The Committee noted that a meeting was to take place between the Chairmen and Deputy Chairmen of the Fitness to Practise (ftp) committees to discuss how the Conduct and Competence Committee would meet its obligations as set out in Article 27(a) of the Health Professions order. The Committee noted that it was important for the ftp committees to consult with each other to ensure that arrangements that were put into place to protect the public were adequate and kept under review.
- 5.3 A Chairman and Deputy Chairman for the Investigating Committee had yet to be appointed as its last two meetings of the Committee were inquorate. An additional meeting of the Committee was scheduled for the 6th December 2005 to elect a Chairman and Deputy Chairman. The Committee recommended that the Chairmens’ meeting was fixed between the next set of ftp committee meetings held in January and April 2006 so that pertinent issues could be considered prior to the production of the Fitness to Practice Annual Report.

5.4 6.1.4 – Matters Arising – Amendment to the Health Professions Order

The Committee noted that the Chief Executive had now received a formal reply from the Department of Health regarding the request for an amendment to the Order so that a sanction of retraining or education could be applied. The Department of Health had stated that there was no need for any addition to the HPO since that requirement could be made using the powers under Article 29 (5)(c) of the Health Professions Order (HPO) which provided for a condition of practice order to be made. There was no restriction on what would be required as a condition, so requiring retraining or education was felt to be a sensible use of this power. Other regulatory bodies such as the General Medical Council (GMC) had already used this power in such a way. The Committee agreed that this information should be communicated to those involved in the fitness to practise processes.

Action: MJS/KJ

- 5.5 The Committee noted that when registrants were not able to fulfil their conditions of practise the panel did have the option to review the sanctions imposed again. The Committee were in agreement that it should be made aware of any such instances and recommended that trends were analysed where conditions of practise proved unworkable. The fitness to practise department would provide more information to Legal Assessors and Chairmen on this matter.

Action: KJ

5.6 7.5 – Matters Arising – Council for Healthcare Regulatory Excellence

The Committee noted the HPC case had been referred to the High Court by the Council for Healthcare Regulatory Excellence (CHRE).

5.7 7.7 – Matters Arising – Fitness to Practise IT Tracking System

The Committee noted that the creation of the Fitness to Practise IT tracking system was underway and due to be completed by March/April 2006.

Item 6.05/87 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 6.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise.
- 6.2 The Director of Fitness to Practise provided a review of her department's work to date. The Committee noted that a lot of media interest had been received at HPC in relation to a paramedic who had been struck off the register.

- 6.3 The Committee noted that the department had also recently dealt with a very difficult case which involved a suicidal registrant. An interim order had been imposed. Throughout the undertaking of this case the team was in contact with the Employee Assistance Programme who advised them on how to proceed. The fitness to practise team planned to undergo additional training to assist them in the effective management of such situations. This had been scheduled for January 2006.
- 6.3 The Committee noted that 17 review hearings had been heard this year. The Committee noted that all of the ODP transfer cases had now been considered.
- 6.4 The Committee noted that the number of allegations received by the HPC had increased in addition. It also noted that the number of case to answer decisions had increased from 45% in 2004-05 to 55%.
- 6.5 The Committee noted that a policy on Equality and Diversity was to be considered by Council. The Chairman reported that he was going to attend an Executive Management Team meeting where this policy was to be discussed.
- 6.6 The Committee noted that a learning points meeting had taken place with the Council for Healthcare Regulatory Excellence (CHRE). CHRE had expressed concern with some of HPC's determinations. The Director of Fitness to Practise reported that the issues raised had been fed back to the Legal Assessors and Panel Chairmen.

Item 7.05/88 DATES OF THE CONDUCT AND COMPETENCE COMMITTEE MEETINGS 2006/2007

- 7.1 The Conduct and Competence Committee received a paper from the Secretary to the Committee for discussion/approval.
- 7.2 The Conduct and Competence Committee approved the dates proposed for its forthcoming meetings scheduled in 2006/2007.

Item 8.05/89 RESOLUTIONS TO ADOPT IF A PRACTICE COMMITTEE (HEALTH, INVESTIGATING OR CONDUCT AND COMPETENCE) REQUIRE TO HOLD A MEETING IN PRIVATE SESSION

- 8.1 The Conduct and Competence Committee received a paper from the Secretary to the Committee for discussion/approval.
- 8.2 The Committee noted that there was currently no provision made in the Rules for Practice Committees' meetings to be held in private. For all

other committees this was provided for in their Standing Orders. The Council could not make Standing Orders for the Practice Committees, which had the power (provided in the Rules) to regulate their own proceedings.

- 8.3 The Committee noted that this provision was necessary if Panels of the Investigating Committee conducted 'case to answer' proceedings in private, if the Investigating Committee decided to review such cases this must in turn be carried out in a private meeting.
- 8.4 The Committee noted that this was a power of the Council rather than an obligation as the information about cases was in the public domain.
- 8.5 The Committee noted that the criteria for going into private session were very general and could apply to almost any discussion. It was agreed subject to a tightening up of the criteria so that it was only where matters identifying an individual were concerned that the committee would go into private session. On this basis the Conduct and Competence Committee approved the resolutions to adopt if a practice committee required to hold a meeting in private session.

Item 9.05/90 REQUESTING PATIENT INFORMATION

- 9.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 9.2 The Committee noted that a practice note had now been devised which set out the procedure which the Council would adopt when obtaining medical records for the purpose of performing its functions under Part V of the 2001 Order. In some instances it was required that medical records would be obtained for an investigation. This information would be sought by the Case Managers on a case by case basis. The Committee noted that every effort would be made to obtain consent from the patient in the first instance but that such information could be demanded if so required.
- 9.3 The Conduct and Competence Committee approved the practice note regarding the disclosure of medical records.

Item 10.05/91 MAKING A COMPLAINT ABOUT A HEALTH PROFESSIONAL

- 10.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 10.2 The Director of Fitness to Practise reported that one of her Case Managers', Mr Guthrie had written the paper which she was presenting on his behalf.

- 10.3 The Committee noted that the number of complaints received about a health professional had grown and therefore an effective operating procedure was required to help deal with this. The Fitness to Practise team had produced two brochures and these would be reviewed again in April 2006.
- 10.4 The Committee noted that one of the future plans was to develop a procedure for taking some complaints by telephone, a standard complaints form had been devised for these purposes. The move to take complaints over the telephone would require a change in HPC policy and approval from the Investigating Committee. Support was also available for members of the public whose first language was not English through a company called 'Language Line' who offered a translation service.
- 10.5 The Committee were in agreement that it would be useful if a glossary of fitness to practise terminologies was included in documentation that was provided to the public.
- 10.6 The Committee discussed the fact that it was not clear in the letter that if there was no case to answer and a further complaint was lodged within three years against a health professional they could be subject to a re-trial. This information was provided in the Investigating Committee Procedure Rules but would also be clarified in the initial documentation sent out to complainants. The Committee noted that the health professional was always informed from the outset of an allegation made against them and as a safeguard was prevented from removing themselves from the register.

Action: KJ

- 10.7 The Conduct and Competence Committee approved the paper subject to the inclusions as detailed above.

Item 11.05/92 REPORTING A CONCERN TO THE HEALTH PROFESSIONS COUNCIL

- 11.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 11.2 The Committee noted that as part of the ongoing development work in the Fitness to Practise department, consideration had been given to the implementation of a form to help people to report a concern about a Health Professional to the HPC. The form would be added to the complaints section of the HPC website and would additionally be sent with relevant correspondence.

- 11.3 The Conduct and Competence Committee approved the form as a guide to complainants.

Item 12.05/93 INTRODUCTION TO THE CASE MANAGEMENT STRATEGY

- 12.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 12.2 The Committee noted that this paper represented the first stages towards the production of a Fitness to Practise Benchbook. A set of default directions had therefore been created so that the needs of hearings could be identified at a much earlier stage. All three fitness to practise committees would be asked to approve the standard directions that would apply automatically as 'default' directions in every case and would help to ensure that HPC was meeting its requirements to conduct fitness to practise proceedings as expeditiously as possible. The Committee noted that the panels could vary or supplement the default directions as necessary.
- 12.3 The Committee noted that there had been an increase in representation of registrants at their hearings and discussed the practical problems posed by this. The Committee noted that the HPC endeavoured to operate as open and transparent procedure as possible and that the standard directions were intended to assist the HPC to meet these aims.
- 12.4 The Committee noted that investigations would be made into whether the document could be produced in plain English.
- 12.5 The Committee agreed that it would be useful if service levels were indicated on the document i.e. that it is likely that you will receive 'x' by 'date' and if flowcharts could be included to clarify processes. The Director of Fitness to Practise reported that the ftp ISO processes could be adapted for these purposes.

Action: KJ

- 12.6 The Conduct and Competence Committee approved the Case Management Strategy and the Directions included within it.

Item 13.05/94 HPC PERFORMANCE APPRAISAL SYSTEM FOR PANEL MEMBERS AND PANEL CHAIRS

- 13.1 The Conduct and Competence Committee received a paper from the Partners Manager to note.

- 13.2 The Committee noted that a performance appraisal system was to be implemented for all HPC Partners in 2006. The appraisal procedure would ensure that HPC was providing a high quality of service so that public interest was upheld in all decisions reached by Partners, highlighting areas for improvement in Partners' Performance and identifying areas for improvement in HPC's training and processes.
- 13.3 The appraisal system had been drafted very much in line with other organisations working practices such as the Work Foundation. The role brief and the competencies required had already been devised and approved by the Executive Management Team, HPC's legal advisor and an HR lawyer who found no inherent bias contained in the documentation. The appraisal system would be presented in its final format for the fitness to practise committee's approval at their January 2006 meetings and would subsequently be approved by Council at its meeting in March 2006. The Committee noted that the Visitors appraisal system was ready to be approved by the Registration and Education and Training Committee respectively.

Item 14.05/95 SECTION 29 GUIDANCE

- 14.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 14.2 The Director of Fitness to Practise reported that she had been asked to provide guidance on cases that were considered under S29(4) of the NHS Reform and Health Care Professions Act 2002. The checklists provided were from the Council for Healthcare Regulatory Excellence (CHRE) to assist CHRE staff and Council members when assessing risk in the consideration of cases under Section 29.
- 14.3 The Committee was in agreement that the checklists provided were very useful and indicative of training needs that should be given to both Panel Chairmen and Legal Assessors. The Committee discussed its obligation under S27 of the Health Professions Order (HPO) to review the performance of Council's functions in relation to standards of conduct, performance and ethics (SCPE) of registrants and prospective registrants and proposed the S29 guidance could be used as part of this review.

Item 15.05/96 ANY OTHER BUSINESS

- 15.1 There was one item of any other business.
- 15.2 The Chairman reported that the President of the HPC was currently coordinating the HPC response to the consultation paper from the General Medical Council (GMC) regarding Good Medical Practice. The document

was considered to be the GMC's equivalent of the HPC's SCPE and as such the Chairman felt that it would be a useful aid in meeting the Conduct and Competence Committee's obligations under S27 to review the HPC SCPE. The Chairman therefore urged all members to submit their comments to the President by no later than Friday 25th November 2005.

Item 16.05/97 DATE AND TIME OF NEXT MEETING

- 16.1 The next meeting of the Conduct and Competence Committee would be held on Wednesday 25th January 2006.

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