

Fitness to Practise – Kelly Johnson

Striking off

Peter Jones, Operating Department Practitioner – convictions for indecent photographs of children

Suspension

Julia Hollinrake, Occupational Therapist - alcohol related convictions
Claire Fox, Occupational Therapist – cautions for shoplifting
Alan Sutheran, Operating Department Practitioner- drug misuse
Wendie McNabb, Dietitian – record keeping

Caution

Paul Cooney, Paramedic- driving under the influence of alcohol
Sarah Jane Hooper, Chiropodist – incorrect assessment of a patient
James Sheehan, Paramedic – self administered entonox
Claire Groom, Paramedic – failure to report a hoax call
Angus Sutherland, Operating Department Practitioner – internet use

Part Heard/Adjourned

Gwyn Lishman, Occupational Therapist
Paul Flack, Paramedic

Referral to Conduct and Competence Committee

The case of Kay Cousins was referred from the Health Committee

Allegations not well founded

Review Hearings

Esther Randall, Physiotherapist – suspension continued
Fiona Drew, Physiotherapist – conditions extended
Minette Magno, Physiotherapist – suspension continued
Richard Adams, Physiotherapist – suspension continued
Joe Osmond, Speech and Language Therapist –conditions revoked, suspension order imposed
Asarath Aliyar, Physiotherapist –suspension continued
Baldev Mehra, Physiotherapist – suspension continued
Gordon Mendy, Physiotherapist – conditions extended.

Interim Orders

Interim Orders have been granted in the following cases:

Derek Dredge, Paramedic

The following interim orders have been reviewed:

Karl Tett
Rachel Winnard
Kathryn Crain
Kay Cousins
Prajake Nawathe
June Elliott
Matthew Hankin

Investigating Committee

65 allegations were received in August and September 2006. Panels of the Investigating Committee considered 37 cases in August and September 2006. The panels referred 25 cases There is a current case to answer rate of 70% At the end of September there were 192 cases within the remit of the Investigating Committee

Conduct and Competence Committee

At the end of September there were 118 cases within the remit of the Conduct and Competence Committee

Health Committee

At the end of September there were 7 cases within the remit of the Health Committee

Review Hearings

At the end of September there were 57 registrants subject to a conditions of practice or suspension order

Hearing Fixing

As at the end of October, 49 full hearings have been fixed for hearing before April 2007

Registration Appeals

In August and September 15 registration appeals were received, 33 appeals were heard and 10 appeals were allowed. At the end of September there were 35 open registration appeals.

Health and Character

In August and September, 67 health and character declarations were received. Panels considered 65 cases. 3 applicants were rejected for registration and 4 registrants had their self referrals referred to a fitness to practise panel.

Protection of Title

70 complaints about the misuse of title were received between August and September 2006.

High Court Appeals

The appeal in the matter of Mohammed Khokhar was dismissed on 20th October 2006. A hearing with regards to costs is scheduled to take place on 6th November 2006.

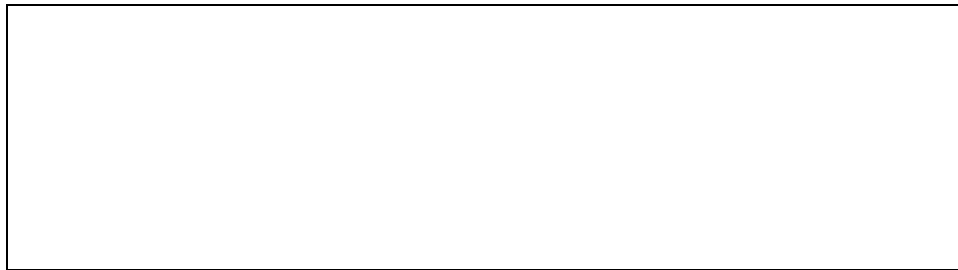
Other Information

Training Attended:

Diversity Training
Interview Training
Particulars Training

Meetings:

Suzanne Phillips, GDC – to discuss the approach the GDC and the HPC take in relation to the drafting of allegations
Equality and Diversity Project Meeting
Office of Fair Trading – to discuss the provisions of the Enterprise Act and how it may assist the HPC
Legal Assessor and Panel Chair Review Day – Report attached



Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Security
2005-11-09	a		RPT	Fincom112005	Final	General Release

Health Professions Council

Allegations - Conduct & Competence and Health Committees

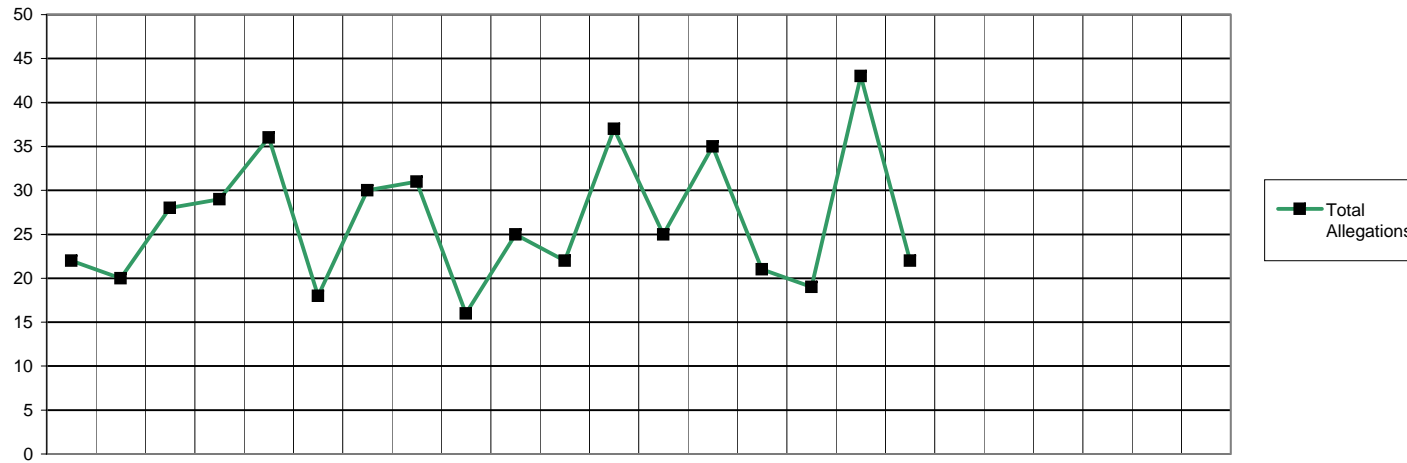
Fitness to Practise Department

		2005										2006										2007			2003/4	2004/5	2005/6	2006/7	
		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	FYE	FYE	FYE	YTD
	Total Allegations	22	20	28	29	36	18	30	31	16	25	22	37	25	35	21	19	43	22							134	172	314	165
Conduct & Competence Committee	C&C Cases Heard	6	5	10	5	6	4	8	7	0	4	7	11	8	10	14	8	8	9							-	55	73	57
	Review Cases Heard	0	0	2	2	4	1	4	1	3	1	2	0	0	5	1	5	3	1							-	13	20	15
	Struck Off	1	1	2	2	1	0	1	0	0	0	0	3	1	3	4	5	3	1							-	13	11	17
	Suspended	2	1	0	3	2	3	1	2	0	1	2	2	1	1	2	1	2	3							-	13	19	10
	Conditions of Practice	0	1	1	0	1	0	1	0	0	0	0	1	1	0	1	0	0	0							-	11	5	2
	Caution	2	1	1	0	0	0	1	0	0	0	2	1	3	4	1	2	2	3							-	8	8	15
	No Further Action	0	0	1	0	1	0	0	0	0	0	1	1	2	1	1	0	0	0							-	3	4	4
	Adjourned	1	0	2	1	2	2	1	5	0	3	3	2	0	1	5	0	1	1							-	5	22	8
	Referred to Health	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0							-	2	1	0
	C&C Cases to be heard	58	59	56	55	54	62	71	83	93	108	104	105	98	107	108	108	112	118							-	59	59	651
	Review cses to be heard	31	31	30	31	33	35	35	36	36	36	35	37	39	38	40	42	41	47							-	28	28	247
Health Committee	Health Cases Heard	1	2	1	1	0	0	0	0	1	1	1	0	0	1	1	1	0	1							-	9	8	4
	Review Cases Heard	0	0	0	0	0	0	0	0	0	0	1	0	0	2	0	0	3	0										5
	Struck Off	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0							-	0	2	0
	Suspended	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0							-	5	2	0
	Conditions of Practice	0	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0							-	1	3	0
	Caution	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							-	0	0	0
	No further action	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0							-	2	0	1
	Review cases heard	0	2	0	0	1	0	0	0	0	0	0	0	0	2	0	0	0	0							-	0	3	2
	HCC cases to be heard	6	7	7	6	6	7	8	8	8	7	7	7	9	9	8	7	7	6							-	7	7	46
	Review cses to be heard	6	6	7	8	8	8	8	8	8	8	8	8	8	8	9	13	10	10							-	6	6	58
Interim Order Panels	Interim Order Panels	1	3	2	0	2	0	1	0	1	2	3	0	4	11	4	3	0	5							-	22	15	27
	Interim Orders Granted	1	2	1	0	2	0	1	0	1	2	3	0	0	4	0	2	0	1							-	17	13	7

Health Professions Council

Allegations - General Details and Investigating Committee

Fitness to Practise Department



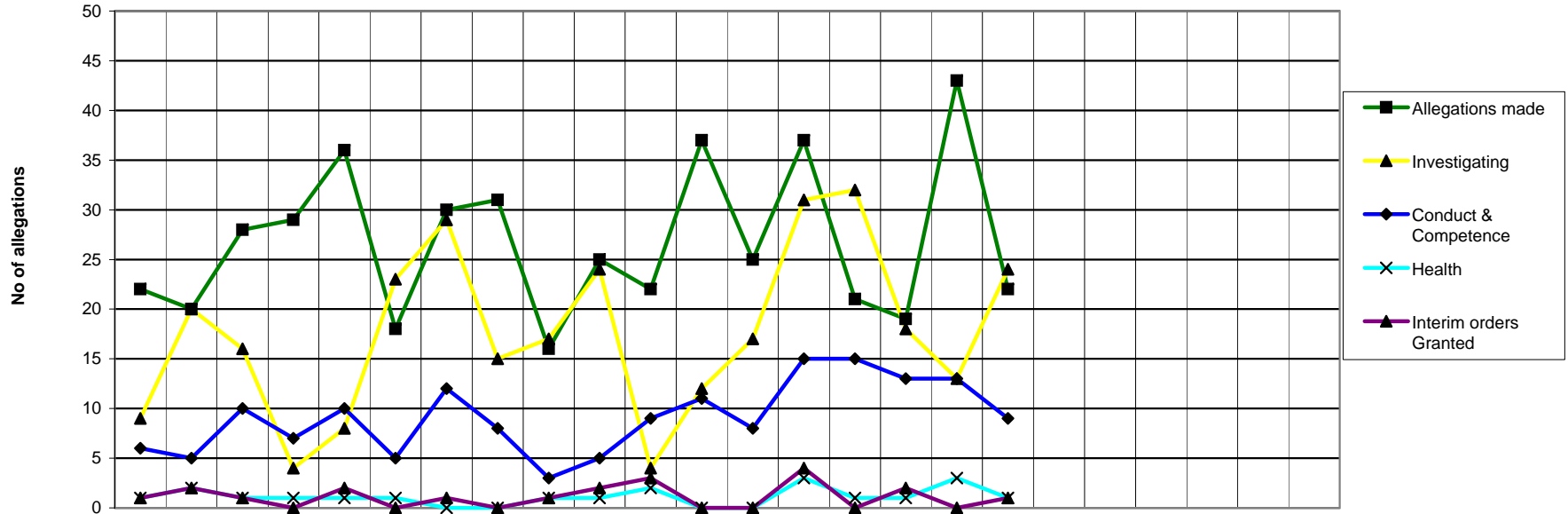
		2005												2006												2007		
		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar			
Source of allegation	Total Allegations	22	20	28	29	36	18	30	31	16	25	22	37	25	35	21	19	43	22									
	Employer	7	7	13	7	6	12	13	8	7	16	8	9	9	17	10	13	26	12									
	Public	6	5	8	8	7	1	5	4	4	6	2	5	8	7	6	3	5	8									
	Police	0	0	5	5	1	2	3	0	2	0	4	5	6	5	4	1	3	1									
	Co-worker	0	0	0	0	0	0	0	0	0	0	5	0	0	0	0	0	0	0									
	Professional body	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0									
	Registrant	4	3	0	3	4	1	3	5	1	1	0	5	0	4	0	1	3	0									
	Other	1	0	0	4	1	1	1	0	0	0	0	0	0	0	0	0	0	0									
	Article 22(6) allegations	4	5	2	2	4	1	5	14	2	2	3	13	2	4	1	0	6	1									
Allegation Type	Misconduct	13	18	17	20	22	15	21	18	7	20	16	18	14	25	14	16	33	16									
	Lack of competence	5	2	4	2	7	2	1	3	4	2	0	1	2	3	1	1	6	4									
	Conviction/caution	1	0	5	6	5	1	7	1	2	2	5	6	7	7	6	1	4	2									
	Health	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0									
	Other regulator	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0									
	Incorrect or fraudulent entry	4	0	1	1	1	0	1	9	2	1	1	12	1	0	0	1	0	0									
Investigating Committee	Invest. Panel Cases heard	9	20	16	4	8	23	26	15	17	24	4	12	16	31	32	16	13	24									
	Cases referred	4	11	7	2	3	9	19	11	10	14	3	7	8	21	25	9	8	17									
	Further Information	1	1	0	0	0	2	0	1	0	2	0	7	0	0	2	2	0	0									
	Fraudulent entry	0	0	0	0	0	0	3	0	0	0	0	2	1	1	0	2	1	0									

2003/4	2004/5	2005/6	2006/7
FYE	FYE	FYE	YTD
134	172	314	165
-	65	113	87
-	18	61	37
-	38	27	20
-	3	5	0
-	10	0	0
-	9	30	8
-	1	8	0
-	22	57	14
-	0	205	118
-	0	33	17
-	0	41	27
-	0	2	0
-	0	1	0
-	0	33	2
-	179	178	132
-	82	100	88
-	27	14	4
-	1	5	5

Health Professions Council

Fitness to Practise

Fitness to Practise Department



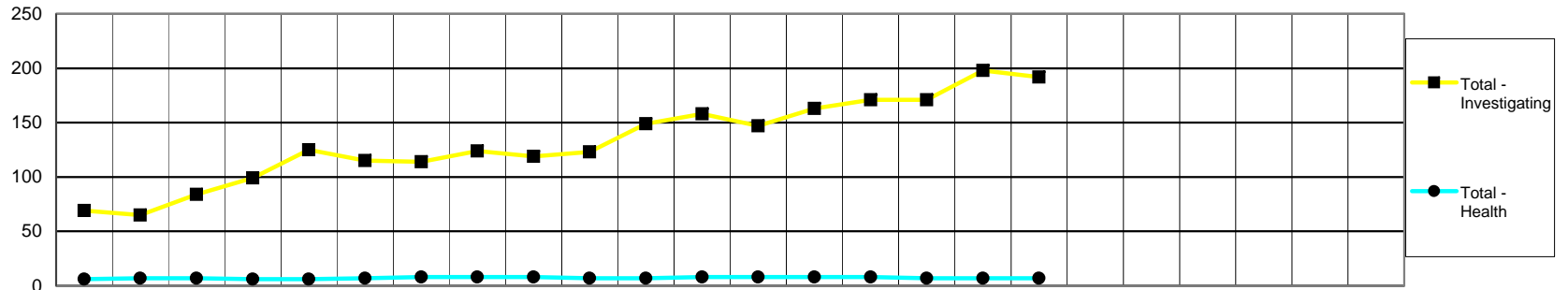
	2005									2006									2007			2003/4	2004/5	2005/6	2006/7					
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	FYE	FYE	FYE	YTD		
Allegations made	22	20	28	29	36	18	30	31	16	25	22	37	25	37	21	19	43	22									134	172	314	167
Investigating	9	20	16	4	8	23	29	15	17	24	4	12	17	31	32	18	13	24									134	181	181	135
Conduct & Competence	6	5	10	7	10	5	12	8	3	5	9	11	8	15	15	13	13	9									19	68	91	73
Health	1	2	1	1	1	1	0	0	1	1	2	0	0	3	1	1	3	1									2	9	11	9
Interim orders Granted	1	2	1	0	2	0	1	0	1	2	3	0	0	4	0	2	0	1									14	18	13	7

This table outlines how many allegations have been made and how many cases each of the three fitness to practise panels have heard. It does not display how many cases are currently within the remit of a particular panel. In some instances the allegation may have been made prior to April 2004

Health Professions Council

Cases Pending - Investigating Panel & Health Panel

Fitness to Practise Department

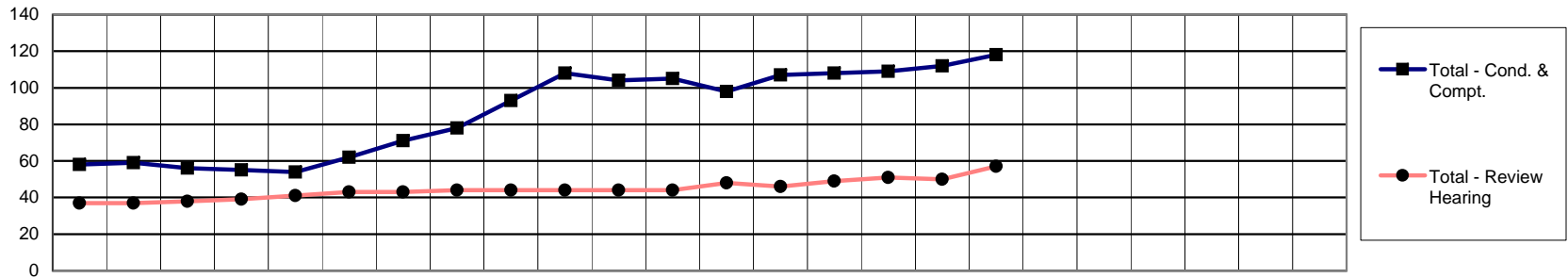


	2005										2006										2007			2005/6	2006/7			
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	FYE	YTD		
Investigating Panel																												
Arts Therapists	0	0	0	0	0	0	0	2	2	2	2	2	2	3	4	4	4	4									2	4
Biomedical Scientists	3	1	5	7	8	7	10	9	6	7	5	5	6	6	6	8	9	8									5	8
Chiropodists & Podiatrists	17	13	16	17	25	23	21	16	17	16	18	24	25	26	25	19	20	20									24	20
Clinical Scientists	0	0	0	1	2	2	3	3	3	3	3	3	3	3	2	3	4	4									3	4
Dietitians	3	2	1	3	4	3	2	2	2	2	2	1	2	2	2	2	2	2									1	2
ODPs	7	7	10	7	9	8	9	10	10	12	11	14	13	12	13	14	16	16									14	16
Occupational Therapists	7	10	8	12	12	12	13	14	12	12	9	14	18	18	19	19	21	22									14	22
Orthoptists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0									0	0
Paramedics	15	19	24	25	25	23	19	19	18	15	20	19	21	24	25	30	45	41									19	41
Prosthetists & Orthotists	1	1	2	3	2	1	1	1	1	1	2	2	2	0	0	0	0	0									2	0
Physiotherapists	9	9	11	16	23	22	21	33	34	38	60	50	46	49	49	45	49	46									50	46
Radiographers	5	2	4	5	11	11	9	10	10	11	15	18	6	13	19	21	21	21									18	21
SLTs	2	1	3	3	4	3	6	5	4	4	4	6	3	7	7	6	7	8									6	8
Total - Investigating	69	65	84	99	125	115	114	124	119	123	149	158	147	163	171	171	198	192									158	192
Health Panel																												
Arts Therapists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0									0	0
Biomedical Scientists	0	0	0	0	0	1	1	1	1	1	1	2	2	2	2	1	1	0									2	0
Chiropodists & Podiatrists	1	1	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0									0	0
Clinical Scientists	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	0	0									0	0
Dietitians	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0									0	0
ODPs	1	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1									1	1
Occupational Therapists	1	1	1	0	0	0	0	0	1	1	2	2	3	3	3	3	3	3									2	3
Orthoptists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0									0	0
Paramedics	0	1	1	1	1	1	1	1	1	0	0	0	0	0	0	0	0	1									0	1
Prosthetists & Orthotists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0									0	0
Physiotherapists	1	1	1	1	1	1	2	2	2	2	2	2	2	2	2	2	2	2									2	2
Radiographers	1	0	1	1	1	1	1	1	1	1	1	1	1	0	0	0	0	0									1	0
SLTs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0									0	0
Total - Health	6	7	7	6	6	7	8	8	8	7	7	8	8	8	8	7	7	7									8	7

Health Professions Council

Cases Pending - Conduct and Competence Panel & Review Hearing

Fitness to Practise Department



	2005									2006									2007			2005/6 FYE	2006/7 YTD			
	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			Jan	Feb	Mar
Cond. & Compt. Panel																										
Arts Therapists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							0	0
Biomedical Scientists	4	4	3	4	3	4	4	5	7	8	8	7	5	6	7	7	8	11							7	11
Chiropodists & Podiatrists	5	9	8	8	8	8	11	12	13	13	14	13	12	12	10	12	13	12							13	12
Clinical Scientists	1	0	0	0	0	0	0	0	1	1	1	1	1	1	1	1	1	1							1	1
Dietitians	2	2	3	3	3	4	2	2	2	2	2	3	2	2	2	2	2	2							3	2
ODPs	10	8	7	6	6	6	5	5	6	9	8	8	8	13	10	10	10	10							8	10
Occupational Therapists	6	5	8	7	6	8	10	12	13	14	13	12	13	12	15	17	17	19							12	19
Orthoptists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							0	0
Paramedics	8	10	9	9	9	10	16	17	22	29	28	29	28	29	31	28	28	28							29	28
Prosthetists & Orthotists	2	2	2	2	3	4	4	4	4	4	4	4	4	4	3	3	3	3							4	3
Physiotherapists	13	13	10	10	9	9	8	8	9	12	12	14	16	17	18	19	19	20							14	20
Radiographers	5	4	4	4	5	5	8	8	8	8	7	7	4	5	5	5	6	7							7	7
SLTs	2	2	2	2	2	4	3	5	8	8	7	7	5	6	6	5	5	5							7	5
Total - Cond. & Compt.	58	59	56	55	54	62	71	78	93	108	104	105	98	107	108	109	112	118							105	118
Review Hearing																										
Arts Therapists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							0	0
Biomedical Scientists	4	4	4	4	5	5	4	4	4	4	4	5	6	6	6	6	5	5							5	5
Chiropodists & Podiatrists	4	3	4	3	3	3	3	3	3	3	3	3	3	2	2	3	3	4							3	4
Clinical Scientists	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1							1	1
Dietitians	1	1	1	1	1	2	2	2	2	2	2	2	3	3	3	3	3	3							2	3
ODPs	0	0	1	1	1	1	1	2	1	1	1	1	1	1	2	3	3	4							1	4
Occupational Therapists	2	2	2	4	4	4	4	4	4	4	5	5	5	5	5	5	5	7							5	7
Orthoptists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0							0	0
Paramedics	4	4	4	4	4	4	4	4	4	4	4	4	5	5	6	7	6	6							4	6
Prosthetists & Orthotists	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1							0	1
Physiotherapists	16	16	16	16	17	18	20	21	21	21	18	18	18	18	18	17	18	21							18	21
Radiographers	3	3	2	2	2	2	1	1	2	2	3	2	3	2	2	2	2	2							2	2
SLTs	3	3	3	3	3	3	3	2	2	2	3	3	3	3	3	3	3	3							3	3
Total - Review Hearing	37	37	38	39	41	43	43	44	44	44	44	44	48	46	49	51	50	57							44	57

Outcome of Investigating Panels - Sept 2006

	Heard	FFI	C&C	ICP	HCP	No Case
Profession						
Arts Therapists	0	0	0	0	0	0
Biomedical Scientists	3	0	5	0	0	0
Chiropractors & Podiatrists	14	0	7	0	0	6
Clinical Scientists	0	0	0	0	0	0
Dietitians	0	0	0	0	0	0
ODPs	12	0	10	1	1	1
Occupational Therapists	15	0	12	1	1	5
Orthoptists	0	0	0	0	0	0
Paramedics	15	0	13	1	1	5
Prosthetists & Orthotists	2	0	1	0	0	1
Physiotherapists	38	2	12	19	0	9
Radiographers	10	0	4	0	0	6
SLTs	4	1	1	0	0	2
Total - 2006/2007 YTD	113	3	65	22	3	35
Total 2005/2006 FYE	178	6	91	7	6	68

	Struck Off	Suspension	Conditions	Caution	No Further Action	Not Found	Not Registered	Adjourned Part Heard	Removed	Cross Referr	Review	Restored
Profession												
Arts Therapists	0	0	0	0	0	0	0	0	0	0	0	0
Biomedical Scientists	1	0	0	0	0	1	0	0	0	1	3	0
Chiropodists & Podiatrists	2	0	0	3	0	0	0	2	1	0	1	0
Clinical Scientists	0	0	0	0	0	0	0	0	0	0	0	0
Dietitians	0	0	0	0	0	0	0	0	0	0	0	0
ODPs	2	1	1	1	0	1	0	1	0	0	0	0
Occupational Therapists	2	2	0	1	0	1	0	0	0	0	2	0
Orthoptists	0	0	0	0	0	0	0	0	0	0	0	0
Paramedics	7	3	1	5	0	0	0	0	0	0	1	0
Prosthetists & Orthotists	0	1	0	1	0	0	0	0	0	0	0	0
Physiotherapists	0	1	0	1	2	1	0	4	0	0	7	0
Radiographers	0	1	0	2	1	1	0	1	1	0	1	0
SLTs	1	0	0	0	0	1	0	1	0	0	1	0
Total - 2006/2007 YTD	15	9	2	14	3	6	0	9	2	1	16	0
Total 2005/2006 FYE	9	20	6	9	3	1	6	28	3	3	26	0

2006/2007 YTD	2005/2006 FYE
0	0
6	8
9	10
0	2
0	4
7	12
8	10
0	0
17	13
2	1
16	32
8	7
4	15
77	114

April -September 2006

	Employer	Police	Public	22(6)	Professional	Other
Profession						
Arts Therapists	1	1	0	0	0	0
Biomedical Scientists	3	0	1	3	0	0
Chiropodists & Podiatrists	2	1	11	2	2	0
Clinical Scientists	2	0	0	0	0	0
Dietitians	1	0	1	0	0	0
ODPs	13	0	0	1	0	0
Occupational Therapists	13	7	7	0	0	0
Orthoptists	0	0	0	0	0	0
Paramedics	28	3	5	9	1	0
Prosthetists & Orthotists	0	0	0	0	0	0
Physiotherapists	12	3	8	0	0	0
Radiographers	10	15	0	1	0	0
SLTs	2	0	0	0	0	0
Total - 2006/2007 YTD	87	30	33	16	3	0
Total 2005/2006 FYE	121	25	70	67	28	5

2006/2007 YTD	2005/2006 FYE
2	2
7	21
18	61
2	3
2	7
14	19
27	38
0	0
46	43
0	3
23	79
26	27
2	12
169	316

	Case to Answer	No Case to Answer	Further Information
Allegation made by			
Employer	44	10	0
Police	4	12	4
Public	7	9	0
Article 22(6)	32	3	0
Registrant/Professional	3	4	0
Total - 2006/2007 YTD	90	38	4
Total 2005/2006 FYE	101	70	7

2006/2007 YTD	2005/2006 FYE
54	79
20	23
16	33
35	33
7	10
132	178

Sanctions

	Struck Off	Suspension	Conditions	Caution	No Further Action	Not Found	Not Registered	Adjourned Part Heard
Profession								
Arts Therapists	0	0	0	0	0	0	0	0
Biomedical Scientists	1	1	0	0	0	0	0	0
Chiropodists	2	0	0	3	0	0	0	2
Clinical Scientists	0	0	0	0	0	0	0	0
Dietitians	0	1	0	0	0	0	0	0
ODPs	2	1	1	2	0	1	1	1
Occupational Therapists	2	2	0	1	0	1	0	1
Orthoptists	0	0	0	0	0	0	0	0
Paramedics	7	3	1	6	0	0	0	0
Prosthetists	0	1	0	1	0	0	0	0
Physiotherapists	0	1	1	1	2	1	0	4
Radiographers	0	1	0	2	1	1	0	1
SLTs	1	0	0	0	0	1	0	1
Total - 2006/2007	15	11	3	16	3	6	1	10
Total 2005/2006	9	20	6	9	3	1	6	28

Removed	Cross Referr	Review	Restored
0	0	0	0
0	1	3	0
1	0	1	0
0	0	0	0
0	0	0	0
0	0	0	0
0	0	2	0
0	0	0	0
0	0	1	0
0	0	0	0
0	0	7	0
1	0	1	0
0	0	1	0
2	1	16	0
3	3	26	0

2006/2007 YTD	2005/2006 FYE
0	0
7	8
9	10
0	2
1	4
9	12
9	10
0	0
18	13
2	1
17	32
8	7
4	15
84	114

Outcome of Investigating Panels - October 2006

	Heard	FFI	C&C	ICP	HCP	No Case
Profession						
Arts Therapists	0	0	0	0	0	0
Biomedical Scientists	3	0	5	0	0	0
Chiropodists & Podiatrists	17	0	9	0	0	7
Clinical Scientists	0	0	0	0	0	0
Dietitians	0	0	0	0	0	0
ODPs	14	0	11	1	1	2
Occupational Therapists	17	0	14	1	1	5
Orthoptists	21	0	0	0	0	0
Paramedics	15	0	19	1	1	5
Prosthetists & Orthotists	2	0	1	0	0	1
Physiotherapists	43	2	13	19	0	13
Radiographers	13	0	5	0	0	8
SLTs	5	1	2	0	0	2
Total - 2006/2007 YTD	150	3	79	22	3	43
Total 2005/2006 FYE	178	6	91	7	6	68

Who Complains

	Employer	Police	Public	22(6)	Professional	Other
Profession						
Arts Therapist	2	1	1	0	0	0
Biomedical Scientist	3	0	1	3	0	0
Chiropodists	3	1	14	2	2	0
Clinical Scientist	2	0	0	0	0	0
Dietitians	1	0	1	0	0	0
ODPs	15	0	0	1	0	0
Occupational Therapists	15	8	9	0	0	0
Orthoptists	0	0	0	0	0	0
Paramedics	31	3	6	11	2	0
Prosthetists	0	0	0	0	0	0
Physiotherapists	14	3	8	0	0	0
Radiographers	12	17	0	1	0	0
SLTs	2	0	0	0	1	0
Total - 2006/2007	100	33	40	18	5	0
Total 2005/2006	121	25	70	67	28	5

2006/2007 YTD
4
7
22
2
2
16
32
0
53
0
25
30
3
196

2005/2006 FYE
2
21
61
3
7
19
38
0
43
3
79
27
12
316

What is referred - April 06-October 06

	Case to Answer	No Case to An	Further Information
Allegation made by			
Employer	54	10	0
Police	6	14	4
Public	8	11	0
Article 22(6)	33	3	0
Registrant/Professional	4	6	0
Total - 2006/2007 YTD	105	44	4
Total 2005/2006 FYE	101	70	7

2006/2007 YTD
64
24
19
36
10
153

2005/2006 FYE	
	79
	23
	33
	33
	10
	178

**Health Professions Council
Fitness to Practise Committees**

Legal Assessor and Panel Chair Report

Introduction

Twice a year, a review day for the legal assessors and panel chairs takes place. This report is intended to update the committee on the discussions that took place at the most recent review day. This review day took place on 11th October 2006.

The agenda for the panel chairs was as follows:

- Fitness to Practise update – workplan, employees and numbers
- CHRE update – Mike Andrews, CHRE
- SCPE Review, Managing your fitness to practise and a Disabled persons guide to being a health professions – Michael Guthrie, Policy Officer
- Decision Making – Health and Character, Self Referrals and Investigating Panels
- CHRE Learning Points
- Sanctions

The Legal Assessors discussed the process of decision making, CHRE learning points and were provided with a case law update.

Approximately twice a year, a learning points meeting take place between CHRE and HPC. These meetings are an opportunity to identify areas of improvement. This information is then disseminated to the legal assessors and panel chairs.

At the most recent meeting, CHRE raised their concern about the lack of reasoning and detail in determination in several cases. They felt that HPC did not include in the determination an explanation of the facts of the case to explain what had happened. They explained that a determination should be worded so that any person reading it - including the registrant, complainant, CHRE and a member of the public, can fully understand the case and decision without requesting further information.

In a different case, it was pointed out that a panel had determined that the registrant's actions did not affect patient care and was unlikely to occur again. However, the determination did not provide any evidence of how the actions had not affected patient care and why it was unlikely to occur again.

In a different case CHRE raised its concern about the lack of explanation regarding the decision on sanction. They felt that the panel did not explain why they imposed one sanction over another.

CHRE also pointed out that one determination had stated that the registrant had received a caution for a large quantity of drugs. However, the panel did not explain what the drugs were, what a large quantity was and the mitigating factors in the case.

CHRE also raised the issue that in some cases the panel had not provided any information as to what the registrant should provide at a review hearing. This was particularly relevant in cases where a suspension order was imposed. The sanctions practice note was updated to this effect in May 2006.

It should be noted that none of the cases identified by CHRE (of which there were approximately 10 – including reviews), merited a referral under CHRE’s Section 29 powers.

The following High Court cases and their relevance to the HPC were discussed at the meeting:

CHRP and (1) GDC, (2) Ian Marshall - [2006] EWHC 1870 (Admin)
The Queen on the Application of Toth v GMC [2003] EWHC 1675 Admin
Meadow and GMC [2006] EWHC 146 (Admin)
Elizabeth Morag Crabbie v GMC [2002- UKPC 45
The Law Society and Claire Louise Wilson [2006] EWHC 1022 (Admin)
The Queen on the Application of Fatnani v General Medical Council
[2006] EWHC 1573 (Admin)
Singleton v The Law Society [2005] EWHC 2915 (Admin)
CHRP and (1) HPC, (2) Simon Harrison

Further discussions took place around the difficulties in Articles 29 and 30 of the Health Professions Order regarding review hearings. It is hoped that a solution to resolve the interpretation of Article 30 will be in place shortly.

Decision

This document is for noting only. No decision is required

Background information

In December 2004, Council approved a policy stating that Council Members would no longer be used to chair fitness to practise panels. In April 2005 13 individuals were appointed to act as fitness to practise panel chairs. They have been chairing panels since July 2005.

Legal Assessors give advice on law and procedure to all fitness to practise panels (excluding the “case to answer” phase of the investigating panel) and registration appeals.

Resource implications

The FTP Team Administrator organises the review day twice a year.

The Director of Fitness to Practise leads the review day(s)

Financial implications

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2006-11-06	a	F2P	AGD	Legal assessor and panel chair report	Final DD: None	Public RD: None

Legal Assessors receive an attendance allowance of £530 plus expenses.
Panel Chairs receive an attendance allowance of £260 plus expenses.

Jonathan Bracken attends the review day to provide the regulatory law update and assist in leading the training

Appendices

Presentation – CHRE Update, Mike Andrews CHRE

Date of paper

6th November 2006



MIKE ANDREWS
CHRE, Head of Fitness to Practise

HPC Training Day
11 October 2006



CHRE's ROLE IN CURRENT REGULATORY ENVIRONMENT

- CHRE does not regulate professionals
- CHRE oversees bodies who regulate
- CHRE is made up of the nine presidents and ten lay members (incl. lay chair)
- CHRE works in partnership with the regulators and other stakeholders



CHRE FUNCTIONS

- To promote the interests of patients and other members of the public in the performance of their functions by regulators
- To promote best practice in regulation
- To promote principles of good professionally led-regulation
- To promote co-operation between the regulatory bodies and between them and bodies performing corresponding functions



BODIES OVERSEEN BY CHRE

GMC

GDC

GOC

GOsC

GCC

HPC

NMC

PSNI

RPSGB



CHRE'S STATUTORY SCHEME

- S 25 General functions
- S 26 Powers
- S 27 Requirement for regulators to make or change rules
- S 28 Complaints (not in force)
- S 29 Referral of FTP cases to High Court



SECTION 29 TEST

'If the Council considers that –

- a) a relevant decision has been **unduly lenient**, whether as to any finding of professional misconduct or fitness to practise on the part of the practitioner concerned (or lack of such a finding), or as to any penalty imposed, or both
- b) a relevant decision **should not have been made**

and that it would be **desirable for the protection** of members of the public for the Council to take action under this section, the Council may refer the case to the relevant court

CHRE consideration of S29 cases

- **Section 29 Process and Procedure**
- **Indicative Sanctions Guidance**
- **Risk factors document**
- **Guidance on exercise of discretion**
- **Court judgments**
- **Outcomes of previous case meetings**
- **Lawyers reports**



TEST POST-RUSCILLO AND TRUSCOTT, COURT OF APPEAL

To demonstrate undue lenience, CHRE must persuade the court that the decision was a decision which a disciplinary tribunal, having regard to the relevant facts and to the object of the disciplinary proceedings, **could not reasonably have imposed** and that it “is **manifestly inappropriate** having regard to the practitioner’s conduct and the interests of the public.”



ELEMENTS OF UNDUE LENIENCE TEST

- that the decision of a fitness to practise panel was **manifestly inappropriate** having regard to the practitioner's conduct and the interests of the public
- that the decision, whilst taking account of the material facts, failed to have due regard for the **safety of the public** and the **reputation of the profession**
- CHRE is also entitled to identify serious **procedural or other irregularities** in the operation of a fitness to practise proceedings which lead it to believe that the decision as to penalty was inappropriate.



NUMBERS OF CASES

- Just over 2,000 determinations considered
- 27 referred to Court
- 17 appeals upheld/settled by agreement
- 2 appeals dismissed
- 4 withdrawn
- 4 appeals waiting to be heard



HPC cases

- Approx 10% of CHRE cases
- 20% requests for further information (av. 14.6%)
- 1.6% went to case meetings (av. 3.7%)
- 1% referred to Court (1.1%)



- *Dr Solanke* – CHRE’s appeal to the High Court was dismissed. However, the judgment provided useful clarification on the meaning of undue lenience in Section 29. For a decision to be unduly lenient it had to be “outside the range of sanctions that the relevant disciplinary panel, applying its mind to all the factors relevant to its jurisdiction, could reasonably consider appropriate”.

- *Dr Brennan* and *Dr Urquhart* – these two appeals were settled by agreement prior to an uncontested hearing on the basis that the doctors agreed to give a formal undertaking to the Court not to undertake certain types of work. The undertaking would be added to their GMC registration and be discloseable to any enquirer including employers.

- *Dr Leeper* - CHRE's appeal to the High Court was upheld. However, judge decided that the suspension should not come into effect in light of the time which had elapsed since the GMC hearing during which the doctor had been unable to work.



- *Dr Mulhem* - CHRE's appeal to the High Court was upheld in an uncontested hearing.

Dr Basiouny –

- i) CHRE does have the power under Section 29 to review findings of fact, although the High Court would only interfere with such findings in exceptional cases
- ii) the committee/panel is obliged to give reasons for its decisions
- iii) a failure to direct a resumed hearing in a case of suspension
 - could mean that a decision is unduly lenient
- iv) the regulatory body and not the committee/panel is the correct first respondent in a Section 29 appeal.



Mr Fleischmann –

The judge also said that in such cases it would never be appropriate for a regulatory body's sanction to cease before the end of the criminal court's sanction.



- *Mr Jellett* –
- The judgment clarified that undue leniency can apply to a decision to restore a practitioner to the register and that deterrence has little relevance in considering applications for restoration. In addition, in cases where CHRE is offered a settlement before a hearing, they should not reject it unless they are confident that they will achieve a substantially different outcome from the one that is offered.



Professor Southall

Importance of mitigation

Public interest in allowing a practitioner to continue to practise

Erasure only if essential



Dr Rajeshwar and Dr Biswas

Failures of process can amount to undue lenience if they could have affected the outcome.



S 29 Learning points

- Face to face learning points meetings
- Agreement of Action points
- Dissemination of learning
- Review of progress on action points through performance review



What makes a good determination

Reasons

description of facts and their seriousness

why charges found/not found

why this does/does not amount to
misconduct/impairment

why sanction was/was not imposed



What makes a good determination

Resumed hearings – Need to explain expectations for the next hearing



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www.chre.org.uk

Health Professions Council
Conduct and Competence Committee – 22nd November

Case Report

Introduction

At the last meeting of the Conduct and Competence Committee, the Committee asked to be provided with more information about the cases that had been heard by panels of the Committee. The report that follows is intended to provide the Committee with an update into the work of the Conduct and Competence Panels.

Since the last Conduct and Competence Committee report, there have been 12 cases where a final disposal decision has been made. In one case the panel determined that the allegation had not been proven.

The Notices of decision and orders for these cases are attached, however the table below provides the Committee with the outcome and the complainant type.

Registrant	Profession	Complainant Type	Type of Allegation	Days of Hearing	Outcome
Sarah Jane Hooper	Chiropodist	Public	Competence – incorrect assessment of patient	2 (Peterborough)	Caution
Wendie McNabb	Dietitian	Employer	Competence – record keeping	2 (Northern Ireland)	Suspension
Thabo Phirie	Biomedical Scientist	Employer	Conviction – wounding with intent to do grievous bodily harm	1	Suspension
Alan Sutheran	Operating Department Practitioner	Employer	Misconduct – drugs misuse	1	Suspension
Peter Jones	Operating Department Practitioner	Article 22(6)	Convictions for possession of indecent photographs of children	1	Struck Off
Angus Sutherland	Operating Department Practitioner	Employer	Misconduct – internet misuse	3	Caution
Claire Fox	Occupational Therapist	Police	Cautions for shoplifting	1	Suspension

Julia Hollinrake	Occupational Therapist	Police	Convictions – alcohol and driving related	1	Suspension
James Sheehan	Paramedic	Employer	Misconduct – self administered entonox	1 (Glasgow)	Caution
Paul Cooney	Paramedic	Police	Conviction – driving under the influence of alcohol	1	Caution
Claire Groom	Paramedic	22(6)	Misconduct – failure to report a hoax call	2	Caution
Kara Glen	Physiotherapist	Professional	Misconduct – inappropriate relationship with a patient	3 (Reading)	Conditions of Practice

Decision

No decision required

Background information

Resource implications

See resource implications for Review paper.

Financial implications

Convening a panel normally incurs an average daily cost of £1770. The average cost of a shorthand writer is £550. If a hearing is scheduled to take place outside of London, a venue generally costs £1100.

HPC also has to pay for a lawyer to present and prepare the case for the HPC. Work is being undertaken to ensure that the FTP team undertake the tasks that do not need to be done by lawyers.

Appendices

Notice of Decision and Orders in the following cases:

Sarah Jane Hooper, chiropodist
Wendie McNabb, dietitian
Thabo Phirie, biomedical scientist
Alan Sutheran, operating department practitioner
Peter Jones, operating department practitioner
Angus Sutherland, operating department practitioner
Claire Fox, occupational therapist
Julia Anne Hollinrake, occupational therapist
James Sheehan, paramedic
Paul Cooney, paramedic
Claire Groom, paramedic
Kara Glen, physiotherapist

Date of paper

7th November 2006

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Tuesday 19th and Wednesday 20th September 2006

Name of Registrant: Sarah Jane Hooper

Registration No.: CH13853

Panel: Elspeth Metcalfe – Chair
Sheila Hollingworth - Lay Partner
John Burrow – Chiropodist / Podiatrist

Legal Assessor: Simon Russen

Hearing Officer: Gemma Lee

Representation: The Council was represented by Nicola Hill of Kingsley Napley Solicitors
The registrant was present and represented by David de Maid of Thomas Graham Solicitors

ALLEGATION:

Your fitness to practise as a registered health professional is impaired by reason of your lack of competence in that on the 26th May 2005 you incorrectly assessed a patient which led to injury of that patient in your clinic.

DECISION:

Having taken careful note of all of the evidence, both written and spoken, the Panel found that there was little dispute about the facts of the case which the Panel considered to be central to the allegation.

On May 26th 2005, Mrs P (a lady who was then 77 years old) was injured by falling off a treadmill during a video gait analysis assessment arranged by Ms Sarah Jane Hooper at her podiatry clinic. Mrs P suffered a cut shin and a broken bone in her right foot as a result of the incident.

The Panel find that Mrs P was unable to give informed consent to the form of assessment undertaken because her evidence (which the Panel accepted) was that she did not understand what was involved by being put on a powered treadmill. It therefore follows that there was no informed consent, and it is unnecessary for the Panel to resolve the issue of precisely what Mrs P and/or her daughter said about her ability to cope with a procedure Mrs P did not understand.

The Panel's view is that the crux of the problem was the lack of an adequate assessment which involved the absence of adequate data gathering, and analysis of that data. In particular, from her own patient notes Miss Hooper was told that Mrs P could not lift her right leg and had lost feeling in her right foot. Further, in evidence Miss Hooper stated that she appreciated that Mrs P could not walk without the use of a walking stick. In these circumstances a competent assessment should, as a minimum, have included a full neurological assessment. Such an assessment should have preceded a treadmill based gait analysis, and would have made clear to Miss Hooper the inappropriateness of such a test.

For these reasons the Panel did not consider the question whether pressure was applied by Mrs P and/or her daughter to be central to the issue because even if pressure had been applied, the exercise of professional judgment should have led Miss Hooper to refuse to be persuaded to alter what she told the Panel had been her initial view that the treadmill should not have been used.

The Panel therefore consider that in relation to this incident Miss Hooper fell below the standard reasonably to be expected of her. In particular standard 1 of the Standards of Conduct, Performance and Ethics require a registered health professional not to do anything, or allow anything to be done, that they have good reason to believe will put the health or safety of a patient in danger.

Consequently, the Panel consider that Miss Hooper's fitness to practice is impaired by reason of her lack of competence demonstrated by this incident.

It follows that the allegation is well founded.

Since announcing the decision set out above the Panel has heard submission on sanction from both Miss Hill on behalf of the HPC and Mr de Maid on behalf of Miss Hooper.

The seriousness of this incident is such that it would not be appropriate to take no further action. However, the allegation was not one of widespread incompetence and the evidence heard by the Panel led it to conclude that it was an isolated incident involving a lack of proper professional judgment. The Panel therefore does not think that it is necessary nor would it be proportionate to impose conditions of practice, still less to suspend. Accordingly, the Panel

concludes that a caution order should be imposed. This accords with the Panel's assessment of Miss Hooper that this unfortunate experience will serve to inform her future practice.

ORDER:

That the Registrar be directed to place a caution against the register entry of Sarah-Jane Hooper for a period of 12 months.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

Health Professions Council

HEARING

Notice of Decision and Order

Date of Hearing: 19th & 20th October 2006

Name of Registrant: Miss Wendie McNabb

Registration No.: DT11652

Panel: Paul Archer – Chair
Sylvia Butson – Dietitian
Roy Norris – Lay Partner

Legal Assessor: Alain Gogarty

Hearing Officer: Emma Pearce

Representation:

The Council was represented by John Harding of Kingsley
Napley Solicitors

The Registrant was not represented and did not attend

ALLEGATION

Your fitness to practise as a registered health professional is impaired by reason of your misconduct and or lack of competence in relation to your record keeping whilst employed at Altnagelvin Hospitals Health and Social Services Trust.

DECISION:

ORDER:

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the [] The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 30th October 2006

Name of Registrant: Thabo Phirie

Registration No.: BS45014

Panel: Elspeth Metcalfe – Panel Chair
John MacKenzie – Lay Partner
Bill Penn – Biomedical Scientist

Legal Assessor: Andrew Glennie

Hearing Officer: Zoe Maguire

Representation:

The Council was represented by John Harding of Kingsley
Napley Solicitors

The Registrant was not present but was represented by Alex Rook
of Irwin Mitchell Solicitors

ALLEGATION(S):

Your fitness to practise as a registered health professional is impaired by reason of your conviction at Sheffield Crown Court on the 6th October 2005 for ‘wounding with intent to do grievous bodily harm.’

DECISION:

The allegation is that the registrant's fitness to practise is impaired by reason of his conviction on a plea of guilty of an offence of wounding with intent to do grievous bodily harm. This offence arose from an assault on his partner, Miss Supang on April 23rd 2005.

The basis of plea was as follows: "I plead guilty to wounding Miss Supang with intent to cause grievous bodily harm on the basis that the wound was caused unintentionally but recklessly but at a time during the incident I intended to cause grievous bodily harm in hitting her with the buckle of my belt."

On behalf of Mr Phirie Mr Rook stated that Mr Phirie's fitness to practise is impaired.

The Panel finds that the admission is correct and that Mr Phirie's fitness to practise is impaired. The Panel has regard to Rule 9 of the Health Professions Council's (Conduct and Competence Committee) (Procedure) Rules 2003. The Panel is satisfied that the circumstances of the offence as described in the Court of Appeal's judgement and as shown by the basis of plea were so serious that Mr Phirie has clearly breached the HPC's Standards of Conduct, Performance and Ethics 3 and 16. The Panel is satisfied that Mr Phirie has not kept high standards of conduct and that this conduct is likely to damage the profession's reputation and undermine public confidence in the profession.

The Panel considered whether it was appropriate to take no further action, whether a caution was an appropriate sanction or whether conditions of practice would be appropriate, but considered that given the seriousness of the assault and the need to maintain public confidence in the profession that none of these was appropriate.

The Panel having listened to what was said by Mr Rook on behalf of Mr Phirie and taking notice of his rehabilitative endeavours during his time in prison and the fact that there is no criticism of his professional competence considers that the appropriate sanction is suspension for a period of one year.

Although this Panel cannot bind any future Panel's consideration they would suggest that Mr Phirie might want to show the Panel that considers this case at review that he has continued to take all available steps to address his behaviour.

ORDER:

The Panel directs the registrar to suspend the registration of Mr Phirie for a period of one year.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER:

The Panel considered the application for an interim suspension order by Mr. Harding. In the interests of public protection the Panel decided to impose an interim suspension order for a period of 28 days or if an appeal is lodged until such time as that appeal is withdrawn or otherwise finally disposed of, subject to a maximum period of eighteen months.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Friday 8th September 2006

Name of Registrant: Alan Sutheran

Registration No.: ODP11315

Panel: Martin Ryder – Chair

John Matharu - Lay Partner

Jason Morley-Smith – Operating Department Practitioner

Legal Assessor: Karen Rea

Hearing Officer: Gemma Lee

Representation: The Council was represented by John Harding of Kingsley Napley Solicitors

The registrant was not present and was not represented

ALLEGATION:

Your fitness to practise as a registered health professional is impaired by reason of your misconduct whilst in the employ of North Tees and Hartlepool NHS Trust between January and May 2005. In particular that you took quantities of injectable drugs from the hospital at which you worked, for your own personal use.

DECISION:

The Panel is satisfied that although Mr Sutheran did not attend, proper notice of the hearing was served upon him not least because Mr Sutheran responded by submitting a bundle of documents dated 17th August 2006 in his defence; therefore indicating he has good notice of today.

The registrant was employed as an Operating Department Practitioner by the North Tees and Hartlepool NHS Trust based at the University Hospital of Hartlepool from 2nd November 1990, until his dismissal for the matters relating to this allegation on 5th September 2005.

In about March 2005, the staff in theatre began to notice that the injectable analgesic drug Tramadol was being over-ordered when it was not being used to the same level for patients. The registrant had known chronic back pain.

When first asked about it, he denied any drug removal or drug taking but subsequently admitted to his employer by way of a written statement that he gave his line manager on 13th June 2005. In that document, he admitted to taking the Tramadol from hospital stocks between January and May 2005 and that he used it to alleviate his chronic back pain. He stated that he had never self-administered it whilst carrying out his duties as an ODP and he stated that he never compromised patient safety.

The Panel is satisfied that the allegation is well founded. Mr Sutheran had admitted the allegation to his employer during the employer investigation and by letter undated to the HPC prior to the HPC investigating panel held on 27th January 2006.

By taking drugs whilst at work, Mr Sutheran breached HPC Standards of Conduct, Performance and Ethics numbers 3, 13, 14, and 16.

The Panel noted that Mr Sutheran stated that he only took Tramadol at the end of his work shift or if there were no scheduled lists in the Day Case Unit, and therefore patients were not at risk. The Panel heard evidence from Ms Kath Smith , Senior Matron and Assistant Perioperative Services Manager in the Theatre Department at the Trust who conducted the disciplinary investigation on behalf of the Trust. Ms Smith said that Mr Sutheran could have been required to work within the main operating theatre department in an emergency situation. The Panel was concerned that Mr Sutheran would have been unfit to work had he been required to do so whilst under the influence of Tramadol. This would have put the safety and care of patients at considerable risk.

In reaching its decision, the Panel has read the bundle of documents including testimonials from the registrant. The Panel has also heard and accepted the Legal Assessor's advice. The Panel has had regard to the HPC's Indicative Sanction Policy as guidance. In addition, the Panel has exercised the principle of proportionality and has addressed the issue of sanction in ascending order commencing with the least severe sanction. In view of the nature of the allegation and the potential for risk to the public, the Panel considers that to take no action or to impose a caution would not adequately protect the public. In addition, conditions of practice in the circumstances are inappropriate and not practical. The Panel next considered suspension as a possible sanction. This is a serious matter involving dishonesty, self-gratification and drug misuse putting the public, the reputation of his profession and himself at risk. Mr Sutheran's initial denial of the allegation only served to compound the difficult and invidious position of his fellow colleagues. Mr

Sutheran has breached the trust of his patients, his employer and his co-workers by his actions.

Taking into account all the circumstances the Panel has concluded suspension would be a proportionate sanction given that Mr Sutheran initially took the drugs to relieve back pain. In addition, the Panel noted that Mr Sutheran had used a non-controlled drug. Furthermore, he had sought help for his addiction problems and it was noted that at the time of these matters he had not been referred for any rehabilitative treatment. The Panel read with interest the testimonials submitted by Mr Sutheran. Accordingly, the Panel has decided to suspend Mr Sutheran's registration for the maximum period of one year. The Panel expects Mr Sutheran to provide any reviewing panel with evidence that his drug dependency has been successfully treated and that he is fit to practise as an Operating Department Practitioner. He should also at the time provide credible evidence of his good character.

ORDER:

That the Registrar be directed to suspend the registration of Mr Sutheran for a period of one year from today.

The Panel has been concerned by the evidence it has heard. The Panel has therefore decided to impose an Interim Suspension Order for the maximum period of 18 months. This is with immediate effect in order to protect the public, the public interest, and Mr Sutheran, the registrant concerned. Finally, under Article 29 (7) (b), the Panel considers that this order should not be subject to an application to vary, replace or revoke it until a period of ten months from today has passed. This gives the registrant sufficient time to consolidate his position.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 4th September 2006

Name of Registrant: Mr Peter Jones

Registration No.: ODP16616

Panel: Sandy Yule – Panel Chair
Steve McConnell – Operating Department Practitioner
Barry Picken – Lay Partner

Legal Assessor: Nigel Parry

Hearing Officer: James Bryant

Representation: The Council was represented by Nicola Hill of Kingsley
Napley Solicitors.
The Registrant was not present nor represented.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of convictions on 30th September 2005 at Portsmouth Crown Court for:

- Making indecent photograph or pseudo-photograph of children
- Making indecent photograph or pseudo-photograph of children x 15
- Possessing an indecent photograph of a child.

DECISION:

On 16th August 2005 Peter Jones a registered Operating Department Practitioner was convicted at South East Hampshire Magistrates Court of 16 counts of making indecent photographs or pseudo-photographs of a child and one count of having an indecent photograph or pseudo-photograph of a child. He was committed for sentence to Portsmouth Crown Court where on 30th September 2005 he was sentenced to a 6 month community rehabilitation order concurrent for each offence. He has to register on the Sex Offenders Register for a period of 5 years from 16th August 2005.

The Panel has been informed that Peter Jones used a credit card to access a website which showed indecent images of young girls, 143 images were recovered from Mr Jones computer. The images were assessed as Level 1 under the Sentencing Guidelines, in the case of R V Oliver.

The Panel finds that the conviction has been proved and on the basis of the facts has concluded that Peter Jones's fitness to practise is impaired by reason of his conviction and accordingly that the allegation is well founded.

In considering what action should be taken against Mr Jones's registration the Panel has taken into account the HPC's Indicative Sanctions Policy.

The Panel has weighed Mr Jones previous good character and the testimonials received, against the Panel's duty to protect the wider public interest which includes the deterrent effect to other health professionals, the reputation of the profession concerned and the public confidence in the regulatory process.

The Panel notes HHJ Cowling's in his sentencing remark stated that people who are prepared to download this sort of material are providing the market, and that market leads indirectly to the abuse of children.

The Panel considers this type of offence to be an extremely serious matter which undermines confidence in the profession and damages its reputation.

In view of the seriousness of his conviction the Panel has determined that mediation or taking no action would be inappropriate. The Panel has also considered whether to impose conditions and has concluded that no conditions could be formulated which would be appropriate and in any event conditions do not adequately reflect the seriousness of the matter. The Panel next considered whether suspension would be sufficient, however as Mr Jones will remain on the Sex Offender's Register until 2010 the Panel has concluded, that as suspension is only for a maximum of 1 year, suspension is not appropriate.

The Panel has concluded that the only way to protect the public is to strike the name of Peter Jones from the Register.

ORDER:

The Panel directs the registrar to strike the name of Peter Jones from the Register.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

In order to protect the public the Panel makes an interim suspension order which will last until the period for appealing expires or until any appeal is disposed of (subject to a maximum of 18 months).

SIGNED & DATED:


14 September 2006

Health Professions Council

CONDUCT AND COMPETENCE HEARING

Notice of Decision and Order

Date of Hearing: 18th, 19th & 24th October 2006

Name of Registrant: Angus Sutherland

Registration No.: ODP18936

Panel: Ian Griffiths – Panel Chair
Stephen McConnell – Operating Department Practitioner
Colin Clarke – Lay Partner

Legal Assessor: Simon Russen

Hearing Officer: James Bryant

Representation: The Council was represented by Ella Blackburn of Kingsley
Napley Solicitors.
The Registrant was present and was represented by Tracey Lambert of UNISON Eastern.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of your misconduct whilst in the employ of Addenbrookes NHS Trust in that;

- a) **You excessively accessed the internet during working hours**
- b) **You accessed inappropriate websites during working hours, which included pornography.**

DECISION:

1. At this stage of the proceedings the Panel is engaged in the task of deciding:
 - i. The factual foundations of the allegation are established.
 - ii. If they are, whether the facts found proved amount to misconduct.
 - iii. If misconduct is established, whether that misconduct impairs Mr Sutherland's fitness to practice.
2. The Panel heard the evidence over two full days last week and has reconvened today for the purpose of making its decision. It has taken 4 hours to come to this decision.
3. The burden of proof rests on the HPC. The standard of that burden is the civil standard of the balance of probabilities. However, this is a serious allegation levelled against a professional man, and accordingly the Panel will expect to find cogent evidence before finding the allegation to be well founded.
4. The evidence before the Panel discloses the proceedings before, and the outcome of, the Trust's disciplinary process. It is stressed that the Panel will consider the evidence introduced before it and that evidence alone, and will come to its own conclusion on the basis of that evidence. The evidence before the Panel includes the evidence before the Trust disciplinary panel, but it will not be influenced by the disciplinary outcome.
5. As can be seen from the precise words of the allegation set out above, this case concerns allegedly excessive and inappropriate internet access by Mr Sutherland. It is necessary to examine the factual background to the allegation.
6. In early 2004 Addenbrookes Hospital NHS Trust ("the Trust") introduced a new computer program called Websense. The purpose of this program was to monitor and record internet usage undertaken through the Trust's computer system. It could be, and was, also used to block internet access to pre-determined categories of internet sites.
7. Immediately upon the introduction of Websense, that program produced a report indicating very high internet usage under Mr Sutherland's log-in. This report resulted in the computer being removed from the location shortly to be described and subjected to analysis by the Trust's IT staff. The evidence resulting from that analysis and the Websense reports,

evidence both as to duration and sites visited, is that which is advanced by the HPC against Mr Sutherland.

8. Before turning to the duration and nature of the internet usage it is necessary to deal with the computer, its location and the extent to which it could be used by other people, and, in particular, used by other people in a way which would be recorded to Mr Sutherland's log-in.
9. In addition to his clinical responsibilities Mr Sutherland also acted as Technical Services Officer. In this latter capacity he would deal with the ordering of operating department equipment. A room off the "dirty" corridor in the operating department was Mr Sutherland's base. This was not an office for Mr Sutherland's exclusive use. It was used to store equipment and members of staff had free access to the room where, for example, they might, in the absence of Mr Sutherland, deposit defective equipment on the desk used by him. The computer stood upon that same desk, the screen of it facing the door leading to the "dirty" corridor. The door was habitually left propped open.
10. It must be recorded that the operating system used by the relevant computer was Windows 98. The consequence of this fact is the computer was less secure than it would have been had a later operating system been used. In particular:
 - i. Were a person to log-in correctly, then unless they subsequently specifically log-out, subsequent internet access would be recorded to their original log-in.
 - ii. A subsequent user could avoid logging-in under their own log-in simply by pressing the Esc key on the keyboard, and were they to do so, they would not only have access to the external internet, but also that access would be recorded under the log-in of the last person to log-in correctly.

These factors are clearly highly relevant to the issues the Panel has to decide.

11. Evidence of internet usage on 11 days was relied upon by HPC. Those days were 21st February 2003 (about a year before the Websense program was introduced) and 10 days between 23rd February 2004 and 29th March 2004 inclusive (being days when the Websense program was running and in respect of which there were Websense reports).
12. The Panel does not intend in this document to record in detail the times of internet activity. On a number of the identified days there was uninterrupted (or barely interrupted) internet activity for several hours at a

time. On 8th March 2004 there was uninterrupted internet activity from about 5:00pm for almost four hours.

13. As to the allegedly inappropriate sites visited, again the Panel does not intend make an exhaustive list of those which appear to be inappropriate. For obvious reasons the sites accessed are not identified here, but there are a number of different sites which are obviously of a pornographic nature. More important is the use of internet “chat rooms”. Repeated access to chat rooms was made, most usually with the name of “Hilary Prolix”, but occasionally with “Harvey Prolix”. The particular rooms entered varied, but most often the rooms suggested adult or indecent content such as “lesbian women” or “jerking off”. Entry to those rooms encouraged inappropriate exchanges.
14. As already stated all this internet activity was attributed to the log in of Mr Sutherland. The task for the Panel is to decide whether, on the balance of probabilities, it was Mr Sutherland who was engaged in these activities.
15. The Panel finds that there is a very close connection between the usage complained of and Mr Sutherland for the following reasons:
 - i. All the inappropriate usage was at times when he was present at work. In coming to this conclusion the Panel has not overlooked the point made by Mr Sutherland in relation to the precise timings of the computer records in conjunction with the access trail. However, the Panel notes both that the computer clock was said by Mr Sutherland himself on one occasion to have been inaccurate (page 976) and also there is evidence that the times of the access trail and computers were not synchronised (pages 924 and 954) and could result in a differences of approximately 15 mins.
 - ii. On occasions when Mr Sutherland was not at work there was recorded neither excessive nor inappropriate usage. For example on 18th and 19th March 2004, both dates when Mr Sutherland was not at work, the only recorded internet activity was a software update on each day.
 - iii. Mr Sutherland has admitted that he is interested in the singers Morrissey and David Sylvian, Japan and in certain Japanese literature and Buddhism. He admitted that he could have accessed internet sites in relation to those interest during breaks at work, as also he might the HMV site, the Amazon site and the Bear In The Big Blue House children’s site. It is noteworthy both that sites relating to these interests appear repeatedly, and, significantly, in very close connection (on occasions, immediately preceding) access to inappropriate sites.

- iv. The chat room identities “Harvey_Prolix” and “Harvey Prolix” listed their interests as Morrissey, David Sylvian and Japan”. The internet sites listed in their profiles were sites accessed during the sessions we have considered. Hilary Prolix’s photograph is clearly that of Holly Pender, and there is evidence of Holly Pender’s photograph having been uploaded during the sessions we have considered. Also there is clear connection between the identities of Harvey and Hilary Prolix.
16. Mr Sutherland has advanced the following points in his defence (and we remind ourselves again that it is not for him to disprove the allegation):
- a. (As we have already noted and accept) that there was a lack of security on this computer arising from the fact that it was running Windows 98.
 - b. He had no computer training and was self taught. The Panel accepts that this is correct.
 - c. That he would not have been able to use the computer for the length of time complained of without that use being noted by his managers or complained about by co-employees. In relation to this point, the Panel finds on the evidence presented to it that Mr Sutherland was somewhat aloof and unapproachable, and that he often communicated with his managers by email. Further, he admitted that at the relevant time he had felt isolated and lonely in his job. However, the real answer to this point raised by Mr Sutherland is that the Websense and hard disc records clearly disclose that there was this internet usage by some person or persons, and on the evidence the Panel has heard in relation to the use Mr Sutherland made of the computer, the desk on which it stood and the room in which the computer was located, the Panel finds that it would not have been possible for another person (or a combination of persons) to have used the computer for the periods complained of on those days when Mr Sutherland was at work and not actually engaged in theatre activities without him being aware of it.
 - d. On 21st February 2003 there was early morning usage before he arrived at work. The Panel did not have print-outs relating to this activity (the records commenced from the time Mr Sutherland arrived at work that day). However the evidence given in the Trust’s disciplinary process was that there was no inappropriate or excessive use in those early hours. The Panel accepts that this was a computer to which other people had access, and that items would be left on the desk overnight. Further, the Panel accepts that other people could have, and probably did, access the internet from it, including the named co-employees identified by Mr Sutherland and whose presence at work is noted on the timeline charts at pages 963 and 964,. But in determining whether Mr Sutherland was guilty of excessive or inappropriate usage the Panel does not find this early

morning usage persuasive either way. It is, however, noteworthy that from 08:24am (when Mr Sutherland was present at work) there was inappropriate usage almost immediately and the usage that day amounted to several hours.

- e. Mr Sutherland relied upon the fact that he had sought assistance of the IT department during the period when it is said he was abusing the system. He urged upon the Panel the view that he would not have done this as would have made detection possible. The panel finds this a completely neutral point, particularly in view of Mr Sutherland's professed ignorance of IT matters (see sub-paragraph (b) above).
17. The Panel makes it clear that there is no eye witness evidence linking the usage complained of to Mr Sutherland, and, as has been stated above, the Panel accepts that on occasions other people used the computer to access the internet in a way which resulted in the use being recorded under his log-in. However, the conclusion of the Panel is that the factors set out in paragraph 16 above provide compelling reasons for finding that the vast majority of the internet use and all of the inappropriate use was as a result of Mr Sutherlands personal use of the computer.
18. The Panel finds that the use was excessive. This finding the Panel makes by reference to the standards of behaviour they would expect of a registered health professional – it does not make that finding by reference to the Trust's internet policy. Clearly many of the sites visited were inappropriate.
19. This conduct clearly amounts to misconduct. In particular it breaches standards 14 and 16 of the Standards of conduct, performance and ethics.
20. Equally clearly this misconduct impairs Mr Sutherland's fitness to practice.
21. Since announcing the decision set out in paragraphs 1 to 20 above the Panel has heard submissions on sanction and has heard further evidence from Mr Sutherland.
22. The following factors should be stated:
 - i. There was no risk that patients would have been exposed to the images being viewed by Mr Sutherland and there was no scope for patients to be affected by his behaviour. Further, there is no evidence that other members of staff were affected by his activities.
 - ii. Although the sites were pornographic, there is no evidence or suggestion that any sites involved children, bestiality or violence.

- iii. Mr Sutherland has produced glowing testimonials as to his clinical skills, relating both to his employment at the Trust and in his subsequent employment.
 - iv. Mr Sutherland has clearly had a real desire to work as an operating department practitioner, and has secured employment in that area by an employer who had full knowledge of the circumstances of his dismissal and has further developed his skills since doing so.
 - v. Although it must be noted that Mr Sutherland has not admitted the allegations, nevertheless the Panel has had the opportunity to observe him over a long period of time and has come to the conclusion that the whole saga has had a devastating effect upon him. The Panel is satisfied that there is a low risk of repetition of this sort of behaviour.
23. The Panel reminds itself that the purpose of sanctions is not to punish but to protect the public and to ensure confidence in the regulatory function entrusted to the HPC.
 24. In the view of the Panel this was behaviour that was too serious to result in no further action being taken.
 25. At the other end of the scale the Panel considers that to strike Mr Sutherland off is not necessary to afford the public protection or to ensure confidence by the public in the HPC disciplinary process, and to do so would be a disproportionate response to the gravity of the established allegations.
 26. There are no sensible conditions of practice that can be imposed.
 27. It follows that the realistic choice for the Panel is between suspension and a caution order. The Panel's view is that to suspend Mr Sutherland, with the consequential loss of employment and de-skilling such an order would be likely to result in, would be an excessive response to his breach. Having taken all factors into account the Panel is satisfied that the gravity of this matter is properly reflected by a caution order, and that the proper length of that order should be two years. The Panel is satisfied that a fair minded member of the public with full knowledge of the circumstances of this case would be satisfied that a caution for that duration sufficiently addresses the seriousness of Mr Sutherland's behaviour.

ORDER:

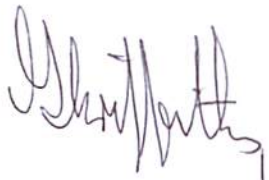
That the Registrar be directed to annotate the register entry of Angus Sutherland with a caution which is to remain for a period of 2 years.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

SIGNED


Chairman.
24/10/06.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Wednesday 6th September 2006

Name of Registrant: Claire Fox

Registration No.: OT35357

Panel: Christine Mills – Chair

John Mackenzie - Lay Partner

Sandra Benson – Occupational Therapist

Legal Assessor: Susan Elson

Hearing Officer: Gemma Lee

Representation: The Council was represented by Nicola Hill of Kingsley Napley Solicitors

The registrant was not present and was not represented

ALLEGATION:

Your fitness to practise as a registered health professional is impaired by reason of your Police cautions for shoplifting on 17th August 2004 and 21st October 2004.

DECISION:

Ms Fox, an Occupational Therapist, did not attend and was not represented. The Panel accepts that she was served with the notice of proceedings and is aware of the allegation and the hearing date and time. Ms Fox was served with the papers at her address as it appeared on the register. Further, she telephoned the Health Professions Council on 3rd August 2006. She said she wanted to take no part in the proceedings and that she no longer wished to be an Occupational Therapist.

Ms Fox was arrested at Debenhams in Sunderland on suspicion of theft, which she admitted on 17th August 1994 and accepted a police caution.

Ms Fox was arrested on a second occasion on 21st October 2004 on suspicion of theft at Fenwicks Ltd. Again she accepted a police caution.

The Panel finds the allegation to be well founded. Ms Fox's actions are a clear breach of the Health Professions Council's Standards of Conduct, Performance and Ethics numbers 3, 14, and 16. Standard 3 is that the registrant must keep high standards of personal conduct, Standard 14 requires a registrant to behave with integrity and honesty and Standard 16 is that the registrant must make sure that his or her behaviour does not damage the profession's reputation.

The Panel considered the sanctions available commencing with the least serious.

During these discussions, the Panel noted that in Ms Fox's submissions of late 2004 and early 2005, she stated that she was keen to continue practising as an Occupational Therapist and that she had worked very hard to overcome the problems which led to her actions. Nevertheless, the Panel were mindful of the public's need to have confidence in the regulatory process. The Panel felt that to take no further action would be inappropriate and viewed that Ms Fox's acceptance of two police cautions was a serious matter. The Panel felt that mediation or conditions of practice would be an impractical and an inappropriate sanction in the circumstances.

They continued to consider the option of a caution which they felt was insufficient given that Ms Fox committed a second theft within two months of receiving a police caution for the first. The Panel felt that this could not be viewed as a minor matter.

The Panel went on to consider the sanction of suspension which they felt was a proportionate and appropriate sanction.

ORDER:

The Panel therefore direct the Registrar to suspend the registration of Ms Fox for a period of one year.

INTERIM ORDER

The Panel makes an Interim Suspension Order under Article 31(2)(a) of the Health Professions Order 2001 until (i) the expiry of the period for an appeal against the striking-off order passing without such an appeal being made, or (ii) if such an appeal is made, the disposal of that appeal (subject to a maximum of 18 months). The panel is satisfied that such an order is necessary to give proper protection to the public.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Wednesday 6th September 2006

Name of Registrant: Julia Hollinrake

Registration No.: OT20621

Panel: Christine Mills – Chair

John Mackenzie - Lay Partner

Sandra Benson – Occupational Therapist

Legal Assessor: Susan Elson

Hearing Officer: Gemma Lee

Representation: The Council was represented by Nicola Hill of Kingsley Napley Solicitors

The registrant was not present and was not represented

ALLEGATION:

Your fitness to practise as a registered health professional is impaired by reason of your convictions

- a) at Stockport Magistrates Court on 25th January 2005 for driving a motor vehicle with excess alcohol and**
- b) at Trafford Magistrates Court on 30th October 2005 for driving a motor vehicle with excess alcohol.**

DECISION:

Ms Hollinrake did not appear and was not represented. Ms Hollinrake wrote on 22nd August 2006 confirming that she was aware of the hearing and submitted a written statement which the Panel has taken into account.

Julia Hollinrake, an Occupational Therapist, was convicted at Stockport Magistrates Court after pleading guilty to driving while the proportion of alcohol in her breath exceeded the prescribed limit. On 4th January 2005 Ms Hollinrake was disqualified from holding or obtaining a driving licence for three years and consented to a community rehabilitation order for one year, and her attendance at a drink impaired drivers scheme. If she attended the drink drivers rehabilitation scheme and completed the course the disqualification was to be reduced by nine months.

Ms Hollinrake was convicted at Trafford Magistrates Court of a second offence of driving while the proportion of alcohol in her breath, blood or urine exceeded the prescribed limit and whilst disqualified and uninsured on 1st November 2005 and was disqualified from holding a licence for three years. She was committed to prison for eight weeks. Ms Hollinrake's appeal against sentence to Minshall Street Crown Court was dismissed on 22nd December 2005.

Ms Hollinrake served four weeks in prison.

The Panel find the allegation to be well founded. Ms Hollinrake has been in clear breach of the Health Professions Council Standards of Conduct, Performance and Ethics – Standards numbered 3 and 16 in particular. Standard 3 is that the registrant must keep high standards of personal conduct and Standard 16 is that the registrant must make sure that his or her behaviour does not damage the profession's reputation.

The Panel considered the range of sanctions available. They considered that to take no further action or a caution was inadequate due to the serious nature of the offences. They considered mediation and conditions of practice to be inappropriate in these circumstances.

The Panel then considered suspension which they felt to be a proportionate level of sanction bearing in mind the serious nature of the convictions.

In reaching their decision, the Panel was mindful that their purpose was not to be punitive and that Ms Hollinrake had served four weeks in prison as well as the ongoing conditions imposed by the court. The Panel recognise that Ms Hollinrake has acknowledged the seriousness of her behaviour and her stated attempts to rebuild her life. However, the Panel was conscious of the need for the public to have confidence in the regulatory process.

ORDER:

The Panel therefore instruct the Registrar to suspend Ms Hollinrake's registration for a period of one year.

INTERIM ORDER

The Panel makes an Interim Suspension Order under Article 31(2)(a) of the Health Professions Order 2001 until (i) the expiry of the period for an appeal against the striking-off order passing without such an appeal being made, or (ii) if such an appeal is made, the disposal of that appeal (subject to a maximum of 18 months). The panel is satisfied that such an order is necessary to give proper protection to the public.

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

Health Professions Council

HEARING

Notice of Decision and Order

Date of Hearing: 27th September 2006

Name of Registrant: James Sheehan

Registration No.: PA05249

Panel:
Raymond Pattison – Panel Chair
Michael Waudby – Paramedic
Cynthia Mendelsohn – Lay Partner

Legal Assessor: Christopher Smith

Hearing Officer: Emma Pearce & James Bryant

Representation:

The Council was represented by John Harding of Kingsley
Napley Solicitors
The Registrant

ALLEGATION(S)

DECISION:

ORDER:

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the [] The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 13th September 2006

Name of Registrant: Paul Cooney

Registration No.: PA14828

Panel: Raymond Pattison – Panel Chair

Claire Emms – Paramedic

Harriet Jennett – Lay Partner

Legal Assessor: Christopher Smith

Hearing Officer: James Bryant

Representation: The Council was represented by Nicola Hill of Kingsley
Napley Solicitors.

The Registrant was present and was represented by Jim McNeil of
UNISON.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of your conviction for driving under the influence of alcohol at Edinburgh Sheriff Court on 9th June 2005.

DECISION:

The registrant, Mr. Cooney attended the hearing and was represented by Jim McNeil of UNISON.

In regard to the allegation, the Panel has considered the witness statement of PC Kevin Weaver and noted that the registrant had been convicted of driving a motor vehicle on 19 May 2005 after consuming so much alcohol that the proportion of it in his breath was 67 microgrammes of alcohol in 100 millilitres which exceeded the prescribed limit contrary to section 5(1)(a) of the Road Traffic Act 1988. An extract certificate of conviction dated 9 June 2005 was produced. It recorded that the registrant had been fined £450 and disqualified from holding and obtaining a driving licence for 12 months (subsequently reduced to nine months). Mr. Cooney had pleaded guilty to the offence at the time of his trial.

It was noted that Mr. Cooney admitted the allegation.

Although the offence was committed by Mr. Cooney when he was not on duty, members of the public place their trust in health professionals and are entitled to expect that health professionals will conduct themselves in a professional manner. Offences of this kind, however isolated they may be, undermine public confidence in the health professions. The registrant's conviction demonstrated that his conduct fell short of the standards of personal conduct expected of a registered health professional under the Standards of Conduct, Performance and Ethics of the Health Professions Council and in particular, paragraphs 3, 14 and 16 of those standards. The Panel therefore finds the allegation to be well founded.

The Panel listened carefully to the comments made by Mr. Cooney in mitigation. The Panel view drink related offences very seriously. The incident in question had potentially harmful consequences. In determining what, if any, sanction to impose, the Panel has taken into account the written submission in mitigation lodged on behalf of Mr. Cooney by Mr. McNeil. The Panel has also taken into account that Mr. Cooney is previously of good character, that he fully accepts responsibility for his conduct and its consequences, and that he has given an assurance that the offence is an isolated lapse. The Panel has noted the registrant's remorse as well as his commitment to remain abstinent from alcohol. Mr. Cooney had attended an alcohol awareness course at his own expense which had resulted in a 25% reduction in his driving ban. The Panel also took into account the fact that the registrant had admitted the offence as well as the fact that no other persons or property were involved and that no one was injured as a consequence of his conduct.

As a result of his conviction, Mr. Cooney has been precluded from carrying out his normal duties as a paramedic. He was initially suspended from his duties but following a disciplinary hearing, his employers the Scottish Ambulance Service had confirmed that they were prepared to allow him to continue with his duties as a registered paramedic. This, however, has been delayed because of ongoing enquiries by occupational health specialists. The Panel recognised the degree of support which Scottish Ambulance Service had provided to Mr. Cooney and the fact that he had remained in paid employment throughout the whole period. The Panel was impressed with such support and also with the testimonials which have been provided on his behalf. It was noted that his employers were giving consideration to monitoring his health in the context of his rehabilitation as a registered paramedic.

The Panel considered all the sanctions available to it under article 29 of the Health Professions Order 2001 with regard to the HPC's Indicative Sanctions Policy. The sanctions included taking no action, mediation, a caution order, a conditions of practice order, a suspension order and a striking off order. The Panel noted that the period of Mr. Cooney's disqualification from driving had now elapsed. The Panel concluded that to take no action would not adequately protect the public and that mediation would serve no particular purpose in this case. Similarly the Panel considered that a conditions of practise order would be not be appropriate given the difficulty of framing suitable conditions. The Panel consider that the seriousness of the allegation might justify a more severe sanction but have concluded that a suspension order or a striking off order would not be proportionate to this offence. Having regard to the low risk of recurrence, and taking into account all the circumstances, the Panel has concluded that a caution order for a period of five years would be an appropriate sanction in this case.

ORDER:

The Panel directs the Registrar to annotate the register entry of Paul Cooney with a Caution which is to run for a period of five years.

RIGHT OF APPEAL

You may appeal against the Panel's decision and the order it has made against you. Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the Court of Session in Scotland.

SIGNED:

Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: 5th October 2006

Name of Registrant: Clare Groom

Registration No.: PA06441

Panel: Derek Adrian-Harris – Panel Chair
Robert Fellows – Paramedic
Christopher Matthews-Maxwell – Lay Partner

Legal Assessor: Andrew Glennie

Hearing Officer: James Bryant

Representation: The Council was represented by Ella Blackburn of Kingsley
Napley Solicitors.
The Registrant was present and was represented by Nicholas Davis
of Albion Napier & Co. Solicitors.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of your misconduct whilst employed by Bedford and Hertfordshire NHS Ambulance Service, in that you were present when a colleague made a hoax call. You then failed to report the incident when you became aware that this had happened.

DECISION:

The Panel finds that the allegation is well founded. The standard of proof is that the balance of probabilities. There are three elements to the factual allegations, namely

- i) That Clare Groom was present when MB made a hoax call.
- ii) She failed to report that a hoax call had been made. (These two elements have never been disputed).
- iii) Whether the registrant was aware of what was going or did she become increasingly aware.

Our conclusion is that she was aware and these are the reasons we have reached that conclusion.

MB in his testimony referred to four phone calls over two to three minutes. PC in his testimony describes how the two parties were only three feet away from each other but most important of all was the evidence of the registrant herself mainly on page 51 of the bundle in which she describes 13 interactions at the time of the hoax call. She admitted to hearing the call. She heard MB say “I don’t think they believe me”. She recalls her own puzzlement at this and she heard another call being made. MB told her that he had played a joke on D and S. She recalled MB saying “I will have to stop this”. She recalled hearing on the radio interaction between a vehicle and control and MB telling her it was too late to do anything because the vehicle obviously had realised it was a joke.

We believe that she might not have been aware of what was happening at the very first moment but she does in her testimony demonstrate a growing awareness of the situation developing. We are satisfied that she became aware of what it was that MB was doing.

We believe that she breached her duties under the Standard of Conduct, Performance and Ethics specifically on page 2 in paragraph 16 “make sure your behaviour does not damage your profession’s reputation”. On page 3 there is a paragraph that begins “that you must at all times act to protect the interests of patients, clients and users and other members of the public”. The Panel heard at great length about the consequences of ambulances being falsely despatched and the risk to the public that may arise. We believe that these are serious matters and we believe it is even worse if a member of the ambulance service initiates such a call. There is another relevant paragraph and that is on page 4 “you should also provide information about the conduct or competence of other health care providers in the best interests of your patients”.

We believe that Clare Groom was aware of the calls that were being made and that she did have a duty to prevent any future events of this nature by reporting MB as soon as possible. She failed to do this and in this failure we believe that Clare Groom has indeed demonstrated that her fitness to practise is impaired.

The Panel has carefully considered all the available options by way of sanction. Mediation is clearly not appropriate. The Panel considered taking no further action but concluded that this would not properly reflect the seriousness of the conduct involved. In the event, the Panel concluded that the appropriate sanction is that Miss Groom should be cautioned.

ORDER:

The Panel direct that Clare Groom be cautioned and that the registrar should be directed to annotate the register accordingly for a period of one year.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

SIGNED:



Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing: Monday 31st July, Tuesday 1st August, and Thursday 26th October 2006

Name of Registrant: Kara Glen

Registration No.: PH62095

Panel: John Williams – Chair
Cait Duthie - Lay Partner
Susan England – Physiotherapist

Legal Assessor: Angela Hughes

Hearing Officer: Gemma Lee

Representation: The Council was represented by John Harding of Kingsley Napley Solicitors

The registrant was present and was represented by Ben Cooper, Counsel instructed by Thompsons Solicitors

ALLEGATION:

Your fitness to practise is impaired by reason of your misconduct whilst employed by Buckinghamshire Hospitals NHS Trust. In particular that you:

- 1. On 18th August 2005, undertook private physiotherapy work when you were on sick leave from your employment with Buckinghamshire Hospitals's NHS Trust.**
- 2. From 18th March 2005, you had an inappropriate relationship with:-**
 - (i) patient IH**
 - (ii) former patient IH**

3. On or after 18th March 2005, having been advised by patient IH that patient LH believed that you were having an intimate relationship with IH, you failed to discuss this concern with LH.

DECISION:

The registrant was present and represented by Mr Cooper who made a preliminary point in relation to particular 2 of the allegation. He advised that it was a very general allegation of an inappropriate relationship and that his client needed a little more specification of what she is alleged to have done, and particularly in relation to the period after IH ceased to be a patient. Mr Harding advised that the allegation covered a course of conduct but he was prepared to further particularise the allegations for Mr Cooper. Having heard from the legal assessor, the panel agreed to Mr Harding's suggestion and the allegation was further particularised and an amendment to particular 3 to read 'on or after 18th March 2005' was also made at Mr Harding's request. The allegation now reads as follows:-

Your fitness to practise as a registered health professional is impaired by reason of your misconduct whilst employed by the Buckinghamshire Hospitals NHS Trust. In particular that you:-

1. On 18th August 2005, undertook private physiotherapy work when you were on sick leave from your employment with Buckinghamshire Hospital's NHS Trust.
2. (i) From March 18th 2005 you had an inappropriate relationship with patient IH which was evidenced as follows:
 - a) Constant banter between IH and the registrant during treatment (para 6 of LH) including flirting (ex LH1).
 - b) Taking IH home after dinner in August 2005 (para 9 LH).
 - c) During IH admission to hospital in August 2005, visits to IH with lunch (para 9 LH).
 - d) On 6th August 2005, Kara Glen invited IH and LH to a barbeque where she went shopping with IH alone and IH consequently stayed the night (para 10 LH).
 - e) On 18th August 2005 arriving early for a treatment session having been told to come after 4pm (para 11 LH).
 - f) IH's apparent distress at cancelling a treatment session on or around 25th August 2005 (para 12 LH).
 - g) Constant texting by IH to Kara Glen (para 13 LH).
 - h) You wore inappropriate clothing, for instance tops showing cleavage and short skirts (Clapham para 4).

(ii) From March 18th 2005, you had an inappropriate relationship with a former patient IH which is evidenced by

1. A trip to a motor show in Castle Donnington where you kissed.
2. An email you received from IH on 10th October 2005.

3. On or after 18th March 2005, having been advised by patient IH that patient LH believed that you were having an intimate relationship with IH, you failed to discuss this concern with LH.

The registrant admitted the facts of particulars 1 and 2 (ii) 1 of the allegation and denied the remainder of the allegation. The registrant also denied that any of the allegations amounted to misconduct or impaired fitness to practise.

The panel considered the oral evidence and written documentation of witnesses IH, LH, Donna Clapham, Hannah Freeman, Julia Mee, and Jan Harrison. The panel agreed to admit into evidence the statement of Audrey Chipa in terms of Rule 10 of the Conduct and Competence Procedure Rules. The panel also considered the submissions of Mr Cooper, Mr Harding and the advice of the legal assessor.

It was established that the registrant was employed by Mr and Mrs H in a private capacity from 18th March 2005 until around 25th August 2005, following their discharge from the spinal injuries unit at Stoke Mandeville Hospital, during which time she provided treatment which took place both in their room at the Renaissance Hotel, Reading, and at locations outside the hotel.

In relation to particular 1 of the allegation, the panel noted that the facts were admitted by the registrant. However, the panel were not satisfied that this amounted to misconduct which impaired fitness to practise. In reaching this conclusion, the panel noted that this matter had been dealt with by the Trust, and took the view that it did not raise any issues of public protection.

In relation to particular 2 (i), the panel are satisfied that this has been proved on the balance of probabilities. In reaching this conclusion, the panel found the witnesses LH, Donna Clapham, and Jan Harrison to be credible and reliable. The panel accepted the evidence of LH in relation to the constant banter between IH and the registrant which included flirting. The panel also accepted the evidence of LH and Donna Clapham in relation to intense and prolonged eye contact during treatment sessions, and the evidence of Donna Clapham of the registrant ‘putting her bum in his face’, which the panel believed to be an inappropriate therapeutic body position. The panel also accepted LH’s evidence of IH slapping the registrant’s bottom.

The panel also accepted the evidence of LH in relation to the registrant taking IH home after dinner in August 2005; visits to IH with lunch when he was in hospital in August 2005; inviting IH and LH to a BBQ on 6th August 2005 when she went shopping with IH alone, and IH staying overnight with the registrant and on 18th

August 2005, the registrant arriving 3 hours early for a treatment session having been told to come after 4pm, all of which were admitted by the registrant in the course of her evidence. The panel accepted the evidence of Jan Harrison to the effect that IH admitted in the course of a meeting with her on 14th September 2005 that there had been intimate physical contact both on the evening that he stayed overnight with the registrant and on the trip to Castle Donnington. The panel noted that Jan Harrison, as an experienced and independent case manager of 20 years standing, was sufficiently concerned to bring the matter to the immediate attention of the HPC. Although the episode of physical intimacy was not recorded in her notes at the time, she was confident that IH conveyed to her that physical intimacy and kissing did occur. The panel also noted that the registrant admitted that IH was distressed at the time of cancelling the treatment session on or around 25th August 2005, although she did not know the cause of this distress. The panel were not satisfied that there was sufficient evidence of constant texting between IH and the registrant although noted that the registrant admitted that IH had sent her some texts.

In relation to particular 2 (i) h) the panel accepts the evidence of Donna Clapham and LH that the registrant dressed inappropriately on occasion by wearing strappy low-cut tops and short skirts. The panel also noted that the registrant, in the course of her evidence stated that she gave no thought to the appropriateness of her dress when carrying out her role and the panel were of the view that this conduct fell below that expected of a registrant.

In relation to particular 2 (ii) 1 and 2, the panel noted that it was admitted by the registrant that she accompanied IH to a motor show in Castle Donnington on 10th September 2005 and that at the end of the day they kissed. The panel accepted IH's evidence that the kiss lasted for approximately 30 seconds. The panel noted that the registrant also accepted that she received the email from IH on 10th October 2005.

In relation to particular 3, the panel are not satisfied that this allegation has been proved on the balance of probabilities. There was no evidence of exactly what IH was alleged to have said to the registrant or when this took place.

The panel accepted that the course of conduct as narrated above demonstrated an inappropriate relationship which commenced when IH was still a patient and continued beyond 25th August when he ceased to be a patient. The particular elements of the registrant's conduct moved the relationship away from a strictly professional one to one which contained inappropriate physical contact. The panel took the view that the email of 10th October 2005 was written within the context of a relationship which had gone beyond the professional and beyond friendship.

The panel took the view that the registrant's conduct, which began as motivational, then developed from a personal and flirtatious relationship to one which involved inappropriate physical contact by kissing. The panel were of the view that the registrant was aware that both patients were emotionally vulnerable and that she abused her position as a professional.

The public places its trust in health professionals, and in return the public expects health professionals to adhere to high standards of professional and personal conduct which are laid down in both their professional standards and those of the HPC. In particular, the registrant's behaviour fell short of complying with the following HPC Standards by conducting an inappropriate relationship with a patient.

- 1. You must act in the best interests of your patients, clients and users.**
- 3. You must keep high standards of personal conduct.**
- 13. You must carry out your duties in a professional and ethical way.**
- 14. You must behave with integrity and honesty.**
- 16. You must make sure that your behaviour does not damage your profession's reputation.**

By continuing with that relationship after cessation of treatment, the registrant continued to breach standards 3, 14, and 16.

For the above reasons, the panel are satisfied that the facts proved amount to misconduct which impairs the registrant's fitness to practise.

The Panel considered all of the sanctions available to it in ascending order of severity and determined that to take no further action would be inappropriate because it would not take account of the seriousness of the misconduct and would give the wrong message to the registrant and to all of the other healthcare professionals in similar circumstances and to the general public.

Similarly the Panel considered the making of a caution order and considered this too would understate the seriousness of the misconduct and would also give the wrong message.

The Panel then considered a conditions of practice order and noted the submissions of Mr Cooper, the evidence of the registrant and Ms Mee, together with the testimonials submitted at the original hearing.

The Panel were of the view that a conditions of practice order would be adequate to protect those using or needing the services of the registrant. In reaching their decision the Panel have taken into account the fact that the relationship was consensual and evolved in the special circumstances of a spinal injuries unit where long term professional relationships can and do develop. The Panel also noted that there were no prior findings against the registrant and that she is currently undergoing a period of counselling which will assist her in reflecting upon her conduct.

The Panel note that the list of conditions proposed by Mr Cooper have already been implemented by Ms Glen's employers and that there has been a review of departmental processes by the Director of Therapy services since the finding of misconduct. The Panel are of the view that these conditions are practical, workable and provide sufficient protection to patients.

ORDER:

The Panel therefore directs the registrar to impose the following conditions for a period of two years:

- a) That the registrant works under close supervision from a senior member of the physiotherapy team at Stoke Mandeville Hospital, including weekly one-to-one supervision of her caseload.**
- b) That the registrant be restricted to working in the spinal gym at Stoke Mandeville Hospital with a minimum of two staff in attendance before patients are admitted.**
- c) That the registrant does not participate in the weekend working rota, the emergency on-call rota, the inter-spinal unit games, spinal unit recreational activities where patients are involved, or rehabilitation trips with patients.**
- d) That the registrant does not work in areas such as the seating clinic, sports therapy, or children's spinal ward which are on occasion more isolated than the spinal gym.**
- e) That the registrant does not engage in any private practice.**
- f) That the registrant continues the course of counselling she is currently undertaking through Stoke Mandeville Hospital's Occupational Health Scheme.**
- g) That the registrant notifies the Health Professions Council immediately if she changes her employment during the currency of this order, at which time the Health Professions Council may wish to review the conditions.**

RIGHT OF APPEAL

You may appeal against the panel's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

