

Memorandum

To: Marc Seale, HPC

From: Jonathan Bracken

Date: 22 March 2002

Re: **Composition of Panels**

Paragraph 19 of Schedule 1 to the Health Professions Order 2001 (the 2001 Order) prevent members of the Health Professions Council (Council members) from serving as members of a panel of a Practice Committee (i.e. the Conduct and Competence, Health and Investigating Committees) considering allegations or other proceedings relating to a practitioner's fitness to practise.

Paragraph 19(6) of that Schedule deals with the membership of Practice Committee panels and sub-paragraph (d) states that "subject to sub-paragraph (f), the panel shall comprise both registrant and lay members none of whom is a Council member..."

Sub paragraph (f) in turn provides that "the person presiding", in other words chairing the proceedings of a panel, "may but need not be a Council member".

Clearly sub-paragraph (d) is qualified by sub-paragraph (f) and therefore the prohibition on Council members being members of a panel does not extend to the person presiding.

The terms "registrant member" and "lay member" are defined for the purposes of the whole 2001 Order in paragraph 1(1)(a) and (b) of Schedule 1 to mean the elected registrant members of Council and the lay members of Council appointed by the Privy Council respectively. However, the term "registrant and lay members" in Paragraph 19(6) cannot refer to Council members, otherwise sub-paragraph (d) would have to be construed as meaning "registrant and lay members of the Council none of whom is a member of the Council" which would clearly be absurd.

Thus, from reading Paragraph 19 as a whole it is clear that a panel may be chaired by a Council member, but the remaining panel members must be registrants and lay persons who are not Council members.

The logic behind this approach is that, whilst Practice Committees as a whole may discharge the fitness to practise functions under the 2001 Order where they appoint panels to do so (for example because of high caseloads or the need to hear cases in diverse geographical locations) the panel members should not be Council members but the chairman may be, so that a link with the Council is maintained.