

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the twenty second meeting of the Health Professions Council held at **10a.m. on Wednesday 2 March 2005** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Professor N Brook (President)
 Mr J Camp
 Mrs S Chaudhry
 Mrs M Clark-Glass
 Mr R Clegg
 Miss M Crawford
 Ms C Farrell
 Mr P Frowen
 Professor T Hazell
 Dr R Jones
 Mr C Lea
 Ms R Levenson
 Professor J Lucas
 Miss M MacKellar
 Mrs C McGartland
 Mr W Munro
 Dr J Old
 Mr K Ross
 Miss P Sabine
 Mrs. B. Stuart
 Dr A Van Der Gaag
 Mr D Whitmore
 Mr N Willis
 Dr S Yule

IN ATTENDANCE:

Mr P Baker, Finance Director
 Mr C Bendall, Secretary to Committees
 Mr J Bracken, Solicitor and Parliamentary Agent, Bircham, Dyson, Bell
 Ms S Butcher, Secretary to Committees
 Miss S Donaldson, Team Administrator
 Mr R Dunn, Director of Information
 Mr T Goulbourne, Network Administrator

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DD: None

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RD: None

Miss E Seall, Case Manager - Appeals, Fitness to Practise
 Ms F Nixon, Director of Education and Policy
 Mr C Middleton, Director of Communications
 Mr M Seale, Chief Executive and Registrar
 Miss R Tripp, Policy Manager

Item 1.04/209 INTRODUCTION AND WELCOME

- 1.1 Professor Brook welcomed all members and non-members to the meeting. She noted that in the absence of Niamh O'Sullivan, Sophie Butcher, would be taking the minutes. Professor Brook welcomed Ms Farrell back on board after a period away and two new members of staff, Miss Donaldson, Team Administrator for Secretariat and Mr Bendall, Secretary to Committees.

Item 2.05/210 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following Council members; Professor J Harper, Ms J Manning (Mr Whitmore attending), Mrs J Stark, Professor D Waller (and Mr M Barham).

Item 3.05/211 APPROVAL OF AGENDA

- 3.1 The Council approved the agenda subject to the inclusion of an additional item regarding the HPC Election schedule. It was agreed that this matter would be addressed under any other business.

Item 4.05/212 MINUTES

- 4.1 It was agreed that the minutes of the twenty first meeting of the Health Professions Council be confirmed as a true record and signed by the President subject to the following amendment;
- 7.8 The Council agreed that the Chief Executive should write to all Professional Bodies to remind them that the grandparenting period would come to an end on 8 July 2005.
- 4.2 The Council noted that 7.8 of the previous minutes stated that the grandparenting period had come to an end when it hadn't and therefore needed to make this clear in the correction as detailed above.
- 4.2 The Council noted that Ms C Farrell had sent her apologies for the Council meeting held on 7th December 2004 but that due to computer problems she had experienced the message was consequently not received.

Item 5.05/213 MATTERS ARISING

- 5.1 Item 5.5 – Regulation of New Professions by the HPC
- 5.1.1 The Council noted that two representatives from the Institute of Medical Illustrators had given their presentation to Council that morning which all had reported to have found extremely informative and useful.
- 5.2 Item 7.2 – The Shipman Inquiry
- 5.2.1 The Council noted that the report on the fifth report of the Shipman Inquiry was included on the agenda for discussion/approval as an agenda item.
- 5.3 Item 7.3 – Outcome of CHRE Referral to the High Court
- 5.3.1 The Council noted that the outcome of the CHRE Referral to the High Court was included as an agenda item to note.
- 5.4 Item 10.8 – Ethnic Monitoring
- 5.4.1 The Council noted that the implementation of the proposed strategy and timetabled plan for addressing HPC's general duty under the Race Relations (Amendment) Act was an ongoing task.

Action: LF

- 5.5 Item 11.5 – Managing Your Fitness to Practise
- 5.5.1 The Council noted that the consultation on the document 'Managing Your Fitness to Practise' was to be carried out imminently.

Action: RT

- 5.6 Item 15.3 – Amendment to Rules
- 5.6.1 The Council noted that changes to the statutory Rules had been identified and was included as an agenda item for discussion/approval.
- 5.7 Item 16.4 – Fitness to Practise Committee Membership
- 5.7.1 The Council noted that three registered medical practitioners had now been appointed to each of the practice committees and that these appointments had been electronically ratified by Council on the 18th January 2005. There individuals appointed were as follows;

Health Committee

Dr C Kenny

Investigating Committee

Dr N Callaghan

Conduct and Competence Committee

Dr G Sharma

- 5.7.2 The Council noted that the membership to the Investigating and Conduct and Competence Committees now met the membership requirements as set out in the Order. Mr D Whitmore and Miss G Pearson had voluntarily stepped down from the Investigating Committee. Mr G Beastall had voluntarily stepped down from the Conduct and Competence Committee and Dr R Jones was randomly selected by the President to step down from the Conduct and Competence Committee as no other members had volunteered.
- 5.7.3 The Council noted that two additional lay members were required for the Investigating Committee so that its membership was commensurate with the Order. Mrs S Chaudhry and Professor J Lucas were approached and their membership ratified by Council.
- 5.8 Item 18.04 - Council Members' Code of Conduct
- 5.8.1 The Council noted that a revised draft code of conduct was included as an agenda item for discussion/approval.
- 5.9 Item 20.04 - Standards of Education and Training for Council and Committee Members
- 5.9.1 The Council noted that staff members, Chairs and Vice-Chairs had attended Disability and Discrimination Act training at the Disability Rights Commission on the 18 February 2005. It was reported that opportunities may arise for further training at a later date.
- 5.10 Item 21.04 – Curriculum Guidance Professional Liaison Group
- 5.10.1 The Council noted that the professional liaison group for curriculum guidance would have its first meeting on 11th March 2005.
- 5.11 Item 22.04 – Amendments to Standards of Education and Training
- 5.11.1 The Council noted that the consultation on the altering of the Standards of Education and Training to reflect the addition of a new profession (Operating Department Practitioners) to the HPC register would come to an end on 11th March 2005.

Item 6.05/214 PRESIDENT'S REPORT

- 6.1 The Council noted that the President had no matters of significance to report.

Item 7.05/215 CHIEF EXECUTIVE'S REPORT

- 7.1 The Council received a paper from the Executive.

- 7.2 The Council noted that Mrs O Cooper, Team Administrator for Secretariat had retired from the Health Professions Council (HPC) and wished her all the very best with her future plans.
- 7.3 The Council noted that a surplus was achieved in January and HPC finances had therefore improved.
- 7.4 The Council noted that an over recruitment of Partners had been identified. Partners would be written to shortly to inform them that they may not be utilised as frequently as was first anticipated. The opportunity for them to step down if they so wished would be offered.
- 7.5 The Council noted that the Chief Executive had attended a meeting in Amsterdam. The U.K. Government will take over the EU Presidency in July 2005 and a project had been set up to establish a standardised 'Letter of Good Standing' for health professionals in the EU. A conference would be held in December 2005.
- 7.6 The Council noted that the HPC had held two listening events, one in Manchester and the other in Blackpool. There was a very good turn out of registrants and a lot of positive feedback obtained. The main queries received concerned informed consent and lapsed registration specifically with regard to the grandparenting of specific professions.
- 7.7 The Council noted that a meeting had taken place with the NHS Appointments Commission. The Privy Council's responsibilities for recruiting lay members to all of the health regulators of the health professions, this responsibility had now been passed onto the NHS Appointments Commission. The President of the HPC would be attending an appointments panel meeting shortly so to establish what procedures would be put in place particularly with regard to their recruitment and appraisal processes and how they met the requirements of health regulation. Four interview dates had been set throughout March 2005.
- 7.8 The Council noted that requests had been made for statistics and some speculative questions posed since the Freedom of Information Act had come into being. Professional bodies, recruitment bodies, the Department of Health and the NHS had submitted such queries to date.

Item 8.05/216 REPORT ON THE FIFTH REPORT OF THE SHIPMAN ENQUIRY

- 8.1 The Council received a paper from the Executive for discussion/approval.
- 8.2 The Council noted that a special group had been established under the Chief Medical Officer to specifically look at revalidation issues.

- 8.3 The Council agreed that the HPC needed to be pro-active in its response to Dame Janet's Report and establish and define what was meant by good practice. The Council noted that these discussions should take place prior to the forthcoming elections so to identify key matters for address whilst there was a body of experience in place. As per Article 27 of the HPO 2001 (the Order) the Council noted that: *'The Conduct and Competence Committee shall- (a) having consulted the other Practice Committees as it thinks appropriate, advise the Council (whether on the Council's request or otherwise) on- (i) the performance of the Council's function in relation to standards of conduct, performance and ethics expected of registrants and prospective registrants.'* The Council therefore recommended that the 'Fifth Report of the Shipman Report' was put on the forthcoming fitness to practise committee agendas for its meetings scheduled in April. The Chairmen of these committees would also arrange an informal meeting to discuss the best way forward. The Council further recommended that the 4 bullet points on page 9 be addressed by the Education and Training Committee in their review of the CPD processes in place.

Action: KJ/FN/SB

Item 9.05/217 AMENDMENTS TO THE RULES

- 9.1 The Council received a paper from the Executive for discussion/approval.
- 9.2 The Council noted the proposed changes to its statutory Rules in the following areas:
- (Practice Committees) (Constitution) Rules 2003
 - (Registration and Fees) Rules 2003
 - (Investigating), (Conduct and Competence) & (Health) (Procedure Rules) 2003.
- 9.3 The Rule changes were to become active prior to the end of the second transitional period in July 2005. Clarification was sought on the amendment to Rule 8 (meetings) of the (Practice Committee) (Constitution) Rules 2003 where it stated that:
- 1. 'The number of meetings which each Committee must hold by virtue of Rule 8(1) is reduced from four to two a year'*
- 9.4 The Council noted that this provision gave the Practice Committees more choice as to the frequency of its meetings and removed the mandatory requirement of four meetings a year. The Council noted that drafts of the proposed Rule changes would be shortly sent to the Department of Health for their approval and did not anticipate any problems with their implementation.

9.5 The Council ratified the proposed changes to its statutory Rules.

Item 10.05/218 PROTECTION OF TITLE

- 10.1 The Council received a paper from the Executive for discussion/approval.
- 10.2 The Council noted that at its meeting on 7th December 2004, the Council approved its Scheme of Delegation which delegated the prosecution of offences under Article 39 of the Health Professions Order 2001 (“the Order 2001”) to the Chief Executive and to the Director of Fitness to Practise, but subject to any prosecutions policy established by the Council.
- 10.3 The Council noted that it had become increasingly necessary for the FTP team to use their Article 25 powers. To date a high level of compliance had been experienced. A database had been set up to log such offences.
- 10.4 The Council noted the mechanisms by which these proposals could be successfully communicated to the public. The Director of Communications reported that examples of successful prosecutions would be spread via a national advertising campaign. This would capture an estimated audience of 25-30 million people. Titles were protected until the end of the second transitional period 8th July 2005. Police forces would be reminded that such offences relating to the protection of title was a clear cut offence. The Council agreed that a timescale was needed to clarify when this policy came into effect.
- 10.5 The Council approved the prosecution policy as set out in the paper.

Item 11.05/219 RESTORATIONS

- 11.1 The Council received a paper from the Executive for discussion/approval.
- 11.2 The Council noted that the Health Committee and Conduct and Competence Committee had agreed at its last meeting to recommend the practice note on Restorations to the Council for ratification.
- 11.3 The Council ratified the recommendation of the Health Committee and Conduct and Competence Committee.

Item 12.05/220 REVIEW OF STANDARDS OF PROFICIENCY

- 12.1 The Council received a paper from the Executive for discussion/approval.
- 12.2 The Council noted that it had agreed to regularly review the Standards of Proficiency (SOP) so to ensure their continued relevance and fulfilment of

function. By way of undertaking this review Council noted the proposal to establish a PLG and an associated workplan.

- 12.3 The Council agreed that the lay membership proposed was low and that this should be increased from 1 to 2 so to ensure consistent representation.

Action: RT

- 12.4 The Council agreed that representation for patients was needed and should be sought from bodies such as Long Term Medical Alliance.

Action: RT

- 12.5 The Council noted that the Standards of Proficiency for Operating Department Practitioner's (ODP's) would not be reviewed at this stage as they were currently in the grandparenting phase.

- 12.6 The Council noted that the subsequent recommendations made by the PLG would be subject to a consultation period of up to 3 months.

- 12.7 The Council noted that the PLG would review the SOP's by considering a variety of evidence, in part via the utilisation of independent market research. The appropriateness and applicability of market research was discussed. The Council agreed that market research was not perhaps entirely applicable for the purposes of this PLG. The Council agreed that it would be more appropriate for the PLG once convened, to decide what type of research should be utilised within the framework of its objectives set.

Action: RT

- 12.8 The Council ratified the proposal for the establishment of a PLG to review its SOP's and associated workplan subject to the changes as outlined above.

Item 13.05/221 REVISED CODE OF CONDUCT FOR COUNCIL AND COMMITTEE MEMBERS

- 13.1 The Council received a paper from the Executive for discussion/approval.
- 13.2 The Council noted that at its meeting on 7th December 2004, it was agreed that the Code of Conduct for members of the HPC be amended to cover non-Council members on Committees.
- 13.3 The Council noted that the Nolan Principles had now been incorporated as an appendix and the guideline that Council members should not miss 3

consecutive meetings had been removed. The reason for this was that as a guideline, it was not a provision the breach of which should potentially lead to removal from office.

- 13.4 The Council agreed to the amendments as set out in the paper.

Item 14.05/222 AMENDMENT TO COUNCIL STANDING ORDERS

- 14.1 The Council received a paper from the Executive for discussion/approval.
- 14.2 The Council noted that at its meeting on 7th December 2004, Council approved a Code of Conduct for Health Professions Council members. The Council noted the recommendation, which in the light of that Code of Conduct, that it approved changes to the Standing Orders. The proposed changes would mean that the documents would not duplicate each other, but support each others functions to ensure that keeping to the Code of Conduct was an integral part of a Council members' role.
- 14.3 The Council agreed to the amendments as set out in the paper.

Item 15.05/223 MINUTES OF THE FINANCE AND RESOURCES COMMITTEE HELD ON 11 FEBRUARY 2005

- 15.1 The Council received the minutes of the Finance and Resources Committee held on 11 February 2005.
- 15.2 The Council noted Minute 9.1 which indicated that the Committee had asked BDO Stoy Hayward to investigate whether there was any case for partners and Council members NOT to charge VAT on their fee charges to HPC. It was indicated that they had concluded that all who were properly registered for VAT should pay over VAT on income derived from HPC. They felt that there was no case for their services to be treated as exempt supplies.
- 15.3 Discussion took place as to whether it was fair to treat the fee receivable as being VAT-inclusive for those registered for VAT (currently those with self-employed income in excess of £58,000 per annum), as they could be thought to be receiving less than those who were not VAT-registered.
- 15.4 The Council recommended that legal advice was sought on how similar organizations dealt with the matter.

Action: PKHB

Item 16.05/224 OUTCOME OF CHRE REFERRAL TO THE HIGH COURT

- 16.1 The Council received a paper for note for the Chief Executive.
- 16.2 The Council agreed that there would be no discussion regarding this matter until the tribunal process had been completed.

Item 17.05/225 MINUTES OF THE EDUCATION AND TRAINING COMMITTEE HELD ON 24 NOVEMBER 2004

- 17.1 The Council received the minutes of the Education and Training Committee held on 24 November 2004.

Item 18.05/226 MINUTES OF THE HEALTH COMMITTEE HELD ON 16 DECEMBER 2004

- 18.1 The Council received the minutes of the Health Committee held on 16 December 2004.

Item 19.05/227 MINUTES OF THE HEALTH COMMITTEE HELD ON 9 FEBRUARY 2005

- 19.1 The Council received the minutes of the Health Committee held on 9 February 2005.

Item 20.05/228 SELF-REFERRALS

- 20.1 The Council received a paper for note for the Director of Fitness to Practise.

Item 21.05/229 CORPORATE GOVERNANCE AT MEETINGS

- 21.1 The Council received a paper for note for the Secretary to Council.

Item 22.05/230 RESOLUTIONS AGREED SINCE THE LAST COUNCIL MEETING

- 22.1 The Council received a paper for note for the Secretary to Council.

Item 23.05/231 COUNCIL MEMBERSHIP

- 23.1 The Council received a paper for note for the Secretary to Council.
- 23.2 The Council noted that following the opening of the Operating Department Practitioner (ODP) Register on 18 October 2004 the Privy

Council had appointed a further registrant, alternate and lay member to Council. Their names were as follows;

- (i) Mr Stephen Wordsworth, registrant ODP member
- (ii) Mr Alan Mount, alternate ODP member
- (iii) Mrs Mary Clark-Glass, lay member

Item 24.05/232 ANY OTHER BUSINESS

- 24.1 The Council noted one item for any other business. This concerned a letter that had been recently received from the Privy Council detailing the proposed election schedule. The first three largest professions' registrant members were proposed to be submitted for election as opposed to the initial proposal of four:

Election in 2005 to hold office until 2006: Physiotherapists, Occupational Therapists, Radiographers.

Election in 2005 to hold office until 2007: Biomedical Scientists, Paramedics, Chiropodists and Podiatrists.

Election in 2005 to hold office until 2008: Speech and Language Therapists, Operating Department Practitioners, Dietitians.

Election in 2005 to hold office until 2009: Clinical Scientists, Arts Therapists, Orthoptists, Prosthetists and Orthotists.

- 24.2 The Council noted that the Privy Council had missed out the title 'Alternate' in Schedule 2 6(a) by implication meant that Alternate members would be in appointment for a period of 4 years. The Council therefore agreed to the Chief Executives proposal to write forthwith to the Privy Council, Department of Health requesting for the relevant correction to be made as soon as possible. The Council noted that parliamentary approval of such changes was not envisaged to happen quickly and therefore the necessary corrections would not be incorporated in time for the 2005 elections. The Council noted that it must therefore be mindful of that fact that this information needed to be communicated to the HPC registrants as clearly and as quickly as possible so that little confusion arose. The Council agreed that these letters be made available on the Council member's section of the HPC website and also e-mailed for members' information.

Action: MJS/NOS

Item 25.05/233 DATE AND TIME OF NEXT MEETING

- 25.1 The next meeting of the Council would be at 11a.m. on Thursday 12 May 2005.

Date
2005-03-03

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