

## Health Professions Council

### Council Meeting -31<sup>st</sup> May 2007

#### The use of Council members as Visitors

#### Executive Summary and Recommendations

##### Introduction

Currently, a small number of those acting as Visitors for the Council are also Council members, or Council alternates.

At its meeting on 28<sup>th</sup> March, the Education and Training Committee discussed and agreed the attached paper, which looks at the role of Council members, and suggests that it is appropriate for the Council to separate the decision-making function of visitors from the strategic oversight function of Council members.

##### Decision

The Council is invited to agree the decisions made by the Education and Training committee, namely:

- that Council members, alternates or committee members should no longer be used as Visitors from this coming academic year (September 2007);
- that, to ensure a smooth transition, any existing arrangements made for visits should be honoured; and
- that those Council members who act as Visitors should be given the required three month notice in order to terminate their contract as a Visitor.

##### Background information

The Education and Training committee also asked the Executive to further consider the issue of Council members acting as Registration Assessors, and a paper on this topic will be discussed by the Committee at its meeting on 12<sup>th</sup> June 2007.

##### Resource implications

The possible recruitment of additional visitors, to cover any shortfalls, as detailed in the paper.

##### Financial implications

None

##### Background papers

None

## **Appendices**

‘Council members as Visitors’, the discussion paper which formed the basis of the Education and Training Committee’s decisions in March 2007.

## **Date of paper**

21<sup>st</sup> May 2007

<b>Date</b>	<b>Ver.</b>	<b>Dept/Cmte</b>	<b>Doc Type</b>	<b>Title</b>	<b>Status</b>	<b>Int. Aud.</b>
2007-05-21	a	CNL	PPR	Council members as Visitors - Council coversheet	Final DD: None	Public RD: None

# Council members as Visitors

A paper for discussion by the Education and Training committee

## **Introduction**

This paper invites the Education and Training committee to discuss the Executive's recommendation that it may no longer be appropriate to use Council members as Visitors. This would be in order to ensure good independent decision-making, and also separation of strategic function and policy-making from that of the decision-making process, and process implementation.

Throughout this paper the term 'Council members' is used broadly, to encompass any individuals who have the strategic oversight function of the HPC's Council and committees. This can include professional members of Council, lay members, alternates, and those individuals who are committee members but who do not sit on Council.

## **The context: Council members acting as panel members**

At its meeting on December 7<sup>th</sup> 2004, the Council determined that it was no longer appropriate for Council members to act as panel members on fitness to practise hearings (a full weblink for this paper is given below in 'further information').

Part of the paper agreed by the Council during this meeting said,

*'Members of the three Practice Committees perform a key audit function involving review the arrangements that are set up to protect the public from people whose fitness to practise is impaired. This involves looking at the work of the panels, approving practice notes and reviewing the processes which the panels operate.'*

*A clear division is required between that strategic policy making role, which is exercised by Council members, and the partners who implement the policy set by the Council. A key element of good corporate governance is that the audit role of Council and its Committees is separated from the implementation of the policy set by the Council.'*

It is clear that the same arguments around the separation of function also apply to the issue of visiting education providers.

## **A potential conflict of interest**

Currently, after a visit report has been produced, this is considered by a panel of the Education and Training committee. Council members who are on a panel and who are considering a visitors' report which they have themselves written will voluntarily withdraw themselves from the discussion at this point. This is in recognition of the potential conflict of interest that could result, but the Executive's recommendation is that to move one step forward in this direction, to also take steps to remove the *appearance* of a conflict of interest, would be commensurate with current thinking around the most appropriate role of Council members.

## ***The White Paper***

It is interesting to note that the Council has been progressive in its thinking on this issue, as with other issues around good corporate governance. For example, the Council recommended in its 'Foster response' that not only some, but *all* professional members of Council should be appointed, not elected, and this is the recommendation that has now come out of the White Paper.

Similarly, the Council first decided to cease using Council members as panel members in December 2004, and the White Paper has now also made this a recommendation for all regulators, saying on page 66,

'Since 2004... GMC Council members have not been allowed to sit on fitness to practise panels, in order to demonstrate the panels' independence. The Health Professions Council has taken similar action and the Nursing and Midwifery Council is currently working towards these changes as a public signal of the independence of their proceedings. The Government believes that this principle should extend consistently across fitness to practise panels for all health professionals.'

Pertinently to this debate, the White Paper then goes on to say, in bold text, '**Council members' sole function should be to act as strategic board members, and they should not be engaged in operational matters where impartiality and independence are paramount.**'

While this recommendation forms part of the fitness to practise section of the White Paper, it is clear that the principle here should extend to all operational areas of regulators' business.

The Education and Training committee may wish to consider whether, in line with the Council's progressive thinking, they want to decide to cease using Council members as Visitors now, in order to take a proactive step to demonstrate independence before this debate extends to the area of education, and possibly before similar recommendations are made by external stakeholders.

## ***Setting up the approvals process***

In making its decision regarding Council members and fitness to practise panel members, the Council recognised that input from Council members had been valuable while the process was being set up, particularly in ensuring that Council members had a good understanding of hearings, and a good grasp of the decision-making skills of panel members. However, the Council felt that since fitness to practise had been running successfully for some time, that it was now acceptable to separate policy and decision-making, in the interests of good corporate governance.

The Education and Training Committee may wish to consider whether input into visits from Council members with experience of first establishing the standards and processes was invaluable while the processes were being set up, but may be less necessary now that further guidance has been published, and the approvals and monitoring processes have been running successfully. Similarly, the Education and Training committee may wish to recognise that Council members' involvement with visits has been useful in the past to ensure Council member engagement with the

approvals process, but that there may be alternative ways of ensuring this engagement in the future.

### ***Implications for the Education department***

Currently, seven Council members and two alternate members of Council act as Visitors.

The implications that discontinuing this use would have in terms of Partner numbers have been discussed with the Education Manager and the Partner Manager, both of whom are confident that any shortfalls created could be met through recruitment in time for the coming academic year.

### ***Partners' contracts***

The HPC is contractually required to give any Partner three months written notice. This is set out in the terms of the Partner Agreement which states the following,

‘13 TERMINATION

13.1 Subject to the provisions of this Clause 13 this Agreement shall continue for a period of two years from the Commencement Date unless terminated:

13.1.1 by either party giving to the other no less than three months' written notice;

It is suggested therefore that ceasing to use Council members as Visitors from the beginning of the next academic year would allow for this notice period (if agreed by the Council in May, this would allow June – August as a notice period) and would also allow time for the Education department to adjust to the reduced numbers of Visitors, and to address, with the Partner Manager, any shortfalls identified, as above.

### ***Recommendations to Council***

The Education and Training committee is asked to recommend to the Council

- that Council members, alternates or committee members should no longer be used as Visitors from this coming academic year (September 2007);
- that, to ensure a smooth transition, any existing arrangements made for visits should be honoured; and
- that those Council members who act as Visitors should be given the required three month notice in order to terminate their contract as a Visitor.

### ***Further work in the area of separation of function***

The Education and Training committee is also invited to ask the Executive to prepare a paper for its meeting in May around the continuing use of Council members as Registration Assessors (assessing international and grandparenting applications) and whether it might be appropriate to consider this in a similar way.

### ***Further information***

The paper that the Council agreed around discontinuing the use of Council members as panel members is available on the HPC website here:

[www.hpc-uk.org/assets/documents/10000673council\\_meeting\\_20041207\\_enclosure09.pdf](http://www.hpc-uk.org/assets/documents/10000673council_meeting_20041207_enclosure09.pdf)

The White Paper ‘Trust, Assurance and Safety – The Regulation of Health Professionals in the 21<sup>st</sup> century’ is available on the Department of Health website here:

[www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_065946](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_065946)

It should also be noted, that since the White Paper recommends that regulatory Councils should no longer have alternate members, there may be an opportunity for any members who are not on the Council or committees in the future to apply for vacancies as Visitors in the future, subject to the Council’s normal Partner application process.

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16<sup>th</sup> March 2007