

UNCONFIRMED

The Health Professions Council

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MINUTES of the twenty-fourth meeting of the Investigating Committee held at **1.00pm on Friday 24 April 2009** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Present

Miss Morag MacKellar
Dr Nigel Callaghan
Ms Christine Farrell

Mrs Daisy Haggery
Professor Diane Waller
Mrs Barbara Stuart

In attendance:

Mr Colin Bendall, Secretary to Committees
Mr Russell Brown, Lead Case Manager
Ms Eve Seall, Head of Case Management

Item 1.09/15 Chair's welcome and introduction

- 1.1 The Chair welcomed everyone present to the meeting.

Item 2.09/16 Apologies for absence

- 2.1 Apologies were received from Mr Robert Clegg and Mr William Munro.

Item 3.09/17 Approval of agenda

- 3.1 The Committee received a paper from the Executive enclosing the recommendations of the FtP Forum which had taken place in the morning of Friday 24 April 2009. The paper enclosed recommendations relating to Items 9-13 of the Committee agenda.

Item 4.09/18 Declarations of members' interests

- 4.1 Committee members had no interests to declare in connection with the items on the agenda.

Item 5.09/19 Minutes of the meeting of 12 February 2009

- 5.1 It was agreed that the minutes of the 23rd meeting of the Committee should be confirmed as a true record and signed by the Chairman.

Item 6.09/20 Annual review of action points

- 6.1 The Committee received a paper to note from the Executive.
- 6.2 The Committee noted the annual review of actions agreed by the Committee in 2008-2009, including the actions agreed at the last public meeting of the Committee.
- 6.3 The Committee noted that the Executive would seek appropriate external advice in undertaking further work on complainants' expectations.

Item 7.09/21 Chair's report

- 7.1 The Chair reported that the chairmen and vice-chairmen of the fitness to practise committees had met on 26 March 2009. The meeting had discussed refinements to the arrangements for managing meetings of the Fitness to Practise Forum. The Committee agreed that the Fitness to Practise Forum held earlier that day had worked well.

Item 8.09/22 Director of Fitness to Practise report

- 8.1 The Committee received a report from the Executive giving an overview of the work of the Fitness to Practise Department. The Committee noted that the Fitness to Practise Forum held earlier that day had discussed the report.

Item 9.09/23 Fitness to Practise annual report 2009

- 9.1 The Committee received a paper for consideration from the Executive recommending that it approve the FtP annual report 2009, which was also submitted as an appendix.

9.2 The Committee received a recommendation from the Forum that it approve the FtP annual report 2009 (subject to editorial changes and the addition of minuted comments from the Forum of 24 April 2009).

9.3 The Committee approved the Forum's recommendation.

Item 10.09/24 Feedback from hearings

10.1 The Committee received a paper for information from the Executive, summarising feedback from panel members and legal assessors on their experience of hearings.

Item 11.09/25 New practice notes

10.1 The Committee received a paper for discussion and approval from the Executive introducing a number of new practice notes. The practice notes had been produced as part of the departmental work plan for the guidance of Panels and to assist those appearing before them.

10.2 The Committee received recommendations from the Forum in relation to each individual practice note which are detailed below.

10.3 Concurrent court proceedings

10.3.1 This practice note set out procedures to be adopted when a registrant to subject to concurrent court proceedings in other courts.

10.3.2 The Committee received a recommendation from the Forum that it approve the practice note.

10.3.3 The Committee approved the practice note.

10.4 Disclosure

10.4.1 This practice note provided on the disclosure of material evidence.

10.4.2 The Committee received a recommendation from the Forum that it approve the practice note.

10.4.3 The Committee approved the practice note.

10.5 Conducting hearings in private

10.5.1 This practice note provided guidance on the circumstances under which hearings may be held in private.

10.5.2 The Committee received a recommendation from the Forum that it approve the practice note.

10.5.3 The Committee approved the practice note.

10.6 Joinder

10.6.1 This practice note provided guidance on the procedure to be adopted when two or more allegations should be heard together and in determining whether allegations against two or more registrants should be heard together.

10.6.2 The Committee received a recommendation from the Forum that it approve the practice note.

10.6.3 The Committee approved the practice note.

10.7 Postponement and adjournment of proceedings

10.7.1 This practice note provided guidance on the circumstances under which hearings may be postponed or adjourned.

10.7.2 The Committee was also asked to agree that discretionary authority to postpone the hearing of any allegation by the Committee be delegated to the Hearings Manager (or a person nominated by the Hearings Manager) provided that any application for such a postponement is made by one of the parties not less than 14 days before the date on which the hearing of the allegation is due to first commence.

10.7.3 The Committee received a recommendation from the Forum that it;
a) approve the practice note; and

b) agree to delegate discretionary authority to the Hearings Manager under as detailed above.

10.7.4 The Committee approved the practice note and to the delegation of authority as detailed above.

10.8 Proceedings in the absence of the registrant

10.8.1 This practice provided guidance on whether to proceed with a hearing in the absence of the registrant.

10.8.2 The Committee received a recommendation from the Forum that it approve the practice note.

10.8.3 The Committee approved the practice note.

10.8 Unrepresented parties

10.8.1 The practice note provided guidance on the steps Panels should adopt when a registrant is unrepresented at a hearing.

10.8.2 The Committee received a recommendation from the Forum that it approve the practice note subject to the addition of wording to the effect that the Chair may invite the legal assessor to explain the process to the registrant.

10.8.3 The Committee approved the practice note subject to the above amendment.

Action: Director of FtP to begin use of practice notes – May 2009

Item 11.09/26 Practice notes: updates to terminology

11.1 The Committee received a paper for discussion and approval from the Executive introducing minor changes to a number of practice notes. As part of the FtP workplan the Executive had reviewed the following practice notes and proposed changes to ensure that they reflect current regulatory best practice, including making the gender neutral:

- Case to answer practice note
- Disposal of cases by consent
- Cross examination in cases of a sexual nature
- Equal treatment
- Preliminary hearings
- Use of Welsh in FtP hearings

11.2 The Committee received recommendations from the Forum that it approve the above practice notes.

11.3 The Committee approved the practice notes.

11.4 Interim orders

11.4.1 The Committee approved changes to the Interim Orders practice note subject to;

- a) clarification in the note of appropriate time periods for interim orders;
- and

b) the addition of wording to the effect that the Chair may invite the legal assessor to explain the process to the registrant.

Action: Director of FtP to begin use of practice updated notes – May 2009

Item 12.09/27 Existing practice notes – fit for purpose

12.1 The Committee received a paper for discussion and approval from the Executive introducing changes to a number of practice notes. As part of the FtP workplan the Executive had reviewed the following practice notes and proposed changes to ensure that they reflect current terminology.

12.2 Requiring the production of information and documents and summoning witnesses

12.2.1 The practice note had been amended to provide further guidance on the production of information.

12.2.2 The Committee received a recommendation from the Forum that it approve the practice note.

12.2.3 The Committee approved the practice note.

12.4 Mediation

12.4.1 The practice note had been amended to include guidance on suitable cases under which mediation may be appropriate.

12.4.2 The Committee received a recommendation from the Forum that it approve the practice note.

12.4.3 The Committee approved the practice note.

Action: Director of FtP to begin use of practice updated notes – May 2009

12.5 The Committee noted that the restructured Council should consider increased use of mediation in fitness to practise cases, including whether it would be appropriate to use mediation in earlier stages of the process. The Committee noted that the use of mediation and alternate dispute resolution had developed in wider society over recent years and there had been recent case law.

Item 13.09/28 Any other business

- 13.1 The Committee noted that, due to the restructuring of the Council and its committees, this was likely to be the last meeting of the Investigating Committee as a strategic decision-making body. The Chairman thanked members of the Committee for their contribution to the Committee over the last few years.

Item 14.09/29 Dates of future Investigating Committees

- 14.1 Subject to the restructuring of the Council and its committee, the next meeting of a Fitness to Practice Committee was scheduled for Thursday 22 October 2009.

Chair

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Date

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