

Council, 3 December 2013

Fitness to Practise Data Retention Policy

Executive summary and recommendations

As part of the work plan of the Fitness to Practise Directorate for 2013-14, we have undertaken a review of the fitness to practise retention policy to ensure it remains fit for purpose. A revised copy of the policy is attached. This document sits alongside the Fitness to Practise Publications Policy which was considered and approved by the Council at its meeting in September.

Decision

The Council is asked to discuss and agree the attached Fitness to Practise Data Retention Policy

Background information

The Council considered a paper discussing the organisational retention policy at its meeting in September 2013

Resource implications

The implementation of the Fitness to Practise Data Retention Policy forms part of the responsibilities of the Fitness to Practise Quality Compliance Team.

Financial implications

None

Appendices

Fitness to Practise Data Retention Policy

Date of paper

21 November 2013

Fitness to Practise Data Retention Policy

Introduction

The Fitness to Practise Directorate of the Health and Care Professions Council (HCPC) is responsible for the management of allegations made against HCPC registrants under Part V of the Health and Social Work Profession Order 2001 (the **Order**). The Directorate is also responsible for investigating and prosecuting¹ offences under Articles 39 and 39A of the Order and managing registration appeals made to the Council's Registration Appeals Panel under Article 37 of the Order².

As most proceedings of Practice Committee and Registration Appeals Panels are conducted in public, many decisions will be public information.³ However, in managing records relating to its work, the Directorate must still strike a careful and proportionate balance between public protection and the rights of the individual concerned, in a manner which accords with the data protection principles.⁴

It is important for the Directorate to maintain records of the regulatory activity it has undertaken, not least to enable patterns of behaviour to be identified over time. However, that does not mean that complete case files need to be retained, especially as they may contain sensitive personal data about third parties. Accordingly, data relating to the Directorate's casework will be retained as set out below. In those cases where a summary record is kept permanently, the retention period will apply to all of the material in the case file other than the summary data.

For this purpose "permanently" means as long as the data subject is alive and may practise their profession or apply for registration. For practical purpose this is regarded as 100 years from the data subject's date of birth. Upon application, the the HCPC will delete the records of a data subject who is deceased.

Information relating to:	Retention period	Comments
complaints that do not meet the HCPC Standard of Acceptance for allegations.	5 years	Information is retained in case further complaints are made.

¹ in Scotland, the HCPC cannot prosecute but must refer potential prosecutions to the Procurator Fiscal

² appeals against registration decisions made by the Education and Training Committee

³ even if a hearing is conducted in private, Art. 6 ECHR requires a 'public pronouncement' to be made

⁴ as set out in Schedule 1 to the Data Protection Act 1998

allegations in respect of which an Investigating Committee Panel determines that there is no case to answer.	5 years	Information is retained in case further complaints are made.
allegations in respect of which a case to answer decision was reached but which are discontinued by a Panel of the Conduct and Competence Committee or Health Committee before final hearing.	5 years	Information is retained in case further complaints are made. The decision will be public information and a summary will be retained permanently
allegations which a Panel of the Conduct and Competence Committee or Health Committee determines are well founded.	10 years	The decision will be public information and a summary will be retained permanently
allegations which a Panel of the Conduct and Competence Committee or Health Committee determines are not well founded.	5 years	Information is retained in case further complaints are made. The decision will be public information and a summary will be retained permanently.
decisions of a Panel of the Conduct and Competence Committee or Health Committee when reviewing an order under Article 30 of the Order. ⁵	10 years	The decision will be public information and a summary will be retained permanently.
decisions of a Panel of the Conduct and Competence Committee or Health Committee to make a striking-off order.	10 years	The decision will be public information and a summary will be retained permanently.
decisions of a Panel of the Conduct and Competence Committee or Health Committee in respect of applications for restoration under Article 33 of the Order. ⁶	10 years	The decision will be public information and a summary will be retained permanently.

⁵ Art. 30 requires all conditions of practice orders and suspension order to be reviewed before they expire

⁶ a person who has been struck off may apply for restoration to the register under Art. 33.

investigations in respect of offences under Article 39 and 39A of the Order (where no prosecution follows).	5 years	Information is retained in case further complaints are made.
prosecutions in respect of offences under Article 39 and 39A of the Order. ⁷	10 years	Information is retained in case further similar complaints are made. The decision will be public information and a summary will be retained permanently
Registration appeals under Article 37 of the Order.	5 years	The decision will be public information and a summary will be retained permanently

December 2013

⁷ offences relate to 'protection of title' (Art 39) or the controlled act of performing the functions of a hearing aid dispenser (Art. 39A) As noted above, prosecutions in Scotland must be undertaken by the Procurator Fiscal and the HCPC will not possess the file in respect of such a prosecution