

<b>Council</b>
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**Minutes of the 107<sup>th</sup> meeting of the Health and Care Professions Council as follows:-**

**Date:** Wednesday 21<sup>st</sup> September 2016

**Time:** 2pm

**Venue:** The Council Chamber, Health and Care Professions Council, Park House,  
184 Kennington Park Road, London SE11 4BU

**Present:** Elaine Buckley (Chair)  
Maureen Drake  
Richard Kennett  
Sonya Lam  
Joanna Mussen  
Robert Templeton  
Graham Towl  
Joy Tweed  
Nicola Wood

**In attendance:**

Claire Amor, Information Governance Manager  
Kayleigh Birtwistle, Quality Compliance Auditor  
Roy Dunn, Head of Business Process Improvement  
Guy Gaskins, Director of Information Technology  
Andy Gillies, Director of Finance  
Phil Hallam, Professional Standards Authority  
Teresa Haskins, Director of Human Resources  
Kelly Holder, Director of Fitness to Practise  
Jacqueline Ladds, Director of Communications  
Hollie Latham, Policy Officer  
Luane Nisbet, Professional Standards Authority  
Greg Ross-Sampson, Director of Operations  
Marc Seale, Chief Executive and Registrar  
Natasha Wynne, Policy Officer

## Public Agenda – Part 1

### **Item 1.16/140 Chair's welcome and introduction**

- 1.1. The Chair welcomed Council members and those seated in the public gallery to the 107<sup>th</sup> meeting of Council.

### **Item 2.16/141 Apologies for absence**

- 2.1 Apologies were received from Stephen Cohen and Stephen Wordsworth.

### **Item 3.16/142 Approval of Agenda**

- 3.1 The Council approved the agenda.

### **Item 4.16/143 Declaration of Members' interests**

- 4.1 Nicola Wood declared an interest as a non-executive Director of the Board of the Information Commissioner's Office. This interest had particular relevance to item 15.ii 'Consultation on the revised guidance on confidentiality'.

### **Item 5.16/144 Minutes of the Council meeting of 6 and 7 July 2016**

- 5.1 The Council considered the minutes of the 106<sup>th</sup> meeting of the Health and Care Professions Council.
- 5.2 The Council amended the minutes to show the attendance of Eileen Mullan. It was also agreed that reference to the clean audit report provided by Grant Thornton would be added to item 6 of day two of the meeting.
- 5.3 The Council agreed the minutes.

### **Item 6.16/145 Matters arising**

- 6.1 The Council noted those matters arising from the meetings held on 6 and 7 July 2016.
- 6.2 The Council noted the report.

### **Item 7.16/146 Chair's report**

- 7.1 The Council received a report from the Chair.

7.2 The Chair attended the 11<sup>th</sup> annual Allied Health Scientific Conference and gave a presentation focusing on stakeholder engagement. The Chair also spent a day with the Malaysian Ministry of Health and discussed their pending implementation of the Allied Health Professions Act 2016. The regulator being established as a result of this Act differs from the HCPC in that it is taking on the professional body role as well.

7.3 The Council noted the report.

#### **Item 8.16/147 Chief Executive's report**

8.1 The Council received and noted a report from the Chief Executive.

#### **Item 9.16/148 New Regulatory body for social work**

9.1 The Council received a verbal update on developments following the announcement on 14 January 2016 by Rt. Hon. Nicky Morgan MP, Secretary of State for Education that a "new regulatory body for social work" would be setup in England.

9.2 During discussion the following points were noted:-

- on 13 July, the House of Commons Education Committee published its report on its inquiry into social work reform. The Committee was critical of the Government's plans to reform regulation;
- the Children and Social Work Bill was debated by the House of Lords Grand Committee in July, some concerns were raised about the proposals for a new regulator. Voting on amendments will take place during the next parliamentary session;
- in August, the Director of Operations and the Director of Policy and Standards met with civil servants from the Department of Health (DoH) and the Department for Education (DfE) who had been newly allocated to this policy area;
- HCPC attended a formal meeting with DOH and DfE officials on 20 September. The meeting planned for 11 July was cancelled;
- there have been reductions to the number of staff at DoH. The Head of Regulation at DoH is new in post and a meeting between this post holder and the HCPC has been arranged; and
- at the recent EMT strategy day the proposals for a new regulatory body for social workers in England had been explored. A risk register for the 'project' of a transfer of the register is being assembled, similar to that produced for the GSCC transfer. Sensitivity analysis is being led by the Director of Finance.

- 9.3 The Council discussed proactive stakeholder engagement on the issue of social work reform. The Council agreed to invite the Chief Social Workers to present to the Council at a future date.
- 9.4 The Council agreed that the Audit Committee should consider the project risk register for the transfer of the register of social workers in England in December, when more detail on proposals are likely to be known.
- 9.5 The Council agreed that the HCPC needed to communicate its ongoing role as regulator to social workers in England. Standards of proficiency for social workers have recently been reviewed and consulted and the profession is currently in registration renewal.
- 9.6 The Council noted the paper.

#### **Item 10.16/149 Reforming health and care professional regulation**

- 10.1 The Council received a presentation from the Chief Executive regarding health and care professional regulation reform.
- 10.2 During discussion, the following points were noted:-
- on 6 July the DoH convened meeting of the regulators to discuss 'upstream measures';
  - in addition, DoH ran a series of five 'pre consultation events' focusing on the purpose of regulation, agility and cost-effectiveness;
  - at these events there was general consensus that legislative reform was needed for modernisation, and that greater autonomy would allow processes to be streamlined enabling more resource to be spent on prevention; and
  - DoH intends to consult in the autumn, this is dependent on Ministerial approval.
- 10.3 In response to a question about the progress of the PSA's performance review, it was noted that a new approach had been introduced this year and that the process was almost complete.
- 10.4 The Council noted the report.

#### **Item 11.i.16/150 Finance report**

- 11.i.1 The Council received a paper from the Executive.

11.i.2 The report sets out the main activities of the Finance Department since the July 2016 meeting of Council. It included statistical information and highlights key work undertaken

11.i.3 During discussion, the following points were noted:-

- HCPC is now paying fees for all non-FTP Partner work automatically rather than by claim. Direct payment for FTP work will begin in October;
- as part of their 2015-16 audit, the NAO made an observation about the budgeting and management accounts process. A paper on this is included on today's meeting agenda;
- FTP expenditure is currently 10% over budget;
- an FTP 3 month budget reforecast is undertaken as the years caseload is clearer at that point;
- major projects are £671k under budget, a significant part of that is due to the 186 Kennington Park Road renovation project, which will carry over into 2017-18; and
- budget holders will reforecast their spend for 2016-17 in October, based on the first six months of actual spend.

11.i.4 In response to a question about whether the FTP year to date overspend cast doubt on the appropriateness of the assumptions on which the 2016-17 budget was based, it was noted that FTP spend in 2015-16 was within 1% of the 2015-16 month 9 and month 6 reforecasts and within 2% of the original 2015-16 budget, and the budget for 2016-17 was set using the same model and similar assumptions. The Director of FTP confirmed that the year to date overspend is primarily due to an unexpected increase in preliminary hearings, hearing adjournments and interim order applications. The FTP department realignment aims to create efficiencies through streamlined process and specialist teams to better deal with increasing complexity.

11.i.5 In response to a question it was noted that the new tribunal suite at 405 Kennington Park Road is being used at 95% capacity, but an evaluation of its impact will be undertaken.

11.i.6 The Council discussed the major projects underspend. The Council requested a paper in December 2016 focusing solely on projects including financial aspects.

11.i.7 The Council noted the paper.

### **Item 11.ii.16/151 Management accounts process**

11.ii.1 The Council received a paper from the Executive.

11.ii.2 The Council noted that the NAO's report to Audit Committee and Council following their 2015-16 audit was critical of the variance analysis in HCPC's management accounts and recommended that HCPC "should agree on the level of granularity and type of detail needed in its management accounts for budget holders and for Council".

11.ii.3 During discussion, the following points were noted:-

- as part of their annual audit, NAO sought to take assurance from the monthly management accounts as a high level control. They felt unable to do this due to a perceived weakness in variance analysis;
- the paper sets out the management accounts process for explaining variances, recommended criteria for EMT and Council to adopt in discussing them, and a proposed response to the NAO's recommendation. The paper was discussed by Audit Committee on 6 September, and the Committee agreed to recommend it to Council for approval;
- the management accounts process is intended to assist budget holders to manage budgets and it currently achieves this. In 2015-16, total actual expenditure was within 1% of the original budget. The figures in the month 12 management accounts were carried through into the audited statutory accounts without adjustment;
- the process clarified in the paper aims to be more consistent in variance analysis, normally focusing on significant variances greater than £30,000 and 5%. EMT will continue to focus more attention on overspends than on underspends; and
- NAO were present when the Audit Committee discussed the paper and were content with the approach taken.

11.ii.4 The Council approved the management accounts process and the criteria for discussing variances and the proposed response to the NAO's recommendation.

### **Item 12.16/152 Comparison between actual and budgeted total registrants 2008 to 2016**

12.1 The Council received a paper from the Executive.

12.2 The Council noted that at its meeting in July 2016 it requested a report on the accuracy of the registrant number forecast.

12.3 The Council noted the consistent accuracy of the forecast and the assurance it provides. The Council thanked the Head of Business Process Improvement for his sustained efforts in preparing it.

12.4 In response to a question it was noted that no decrease has been seen in EU applicants since the referendum vote. DoH have issued a call for information on how the UK leaving the European Union will affect the healthcare sector.

12.5 The Council noted the paper.

### **Item 13.16/153 Policy and Standards report**

13.1 The Council noted this paper.

### **Item 14.i.16/154 Standards of Conduct, Performance and Ethics user guide**

14.i.1 The Council received a paper from the Executive.

14.i.2 During discussion, the following points were noted:-

- the standards of conduct, performance and ethics (SCPE) were recently revised, one of the recommendations from engagement work was to produce an accessible guidance to the standards for service users;
- the guide provides information on how they should expect their health and care professional to behave and what options are available if there is a concern that a professional is not meeting the standards;
- the new guide will replace the 'Is your health and care professional registered?' leaflet, and will be used in a number of ways in order to engage with service users and raise awareness of the role of the HCPC; and
- before publication, the guide will be reviewed by the Plain English Campaign.

14.i.3 The Council discussed the 'other contacts' section of the guidance. It was agreed that Healthwatch, the Patient Advice and Liaison Service (PALS) and the Local Government and Social Care Ombudsman should be added to this list. It was noted however that the list is not exhaustive.

14.i.4 The Council noted that PALS is not a patient representative group and this should be amended on page 17 of the guidance.

14.i.5 The Council discussed the format of the guidance. It was noted that focus groups preferred the leaflet format, and that this format has the highest uptake through the GP surgery waiting room campaign. In response to a question it was noted that a digital version of the guidance has not yet been considered and will be explored.

14.i.6 The Council agreed the text of the publication, subject to formal legal scrutiny and 'Plain English' editing.

#### **Item 14.ii.16/155 Outcomes on the consultation on Social Worker (in England) Standards of Proficiency**

14.ii.1 The Council received a paper from the Executive.

14.ii.2 The Council noted that the standards of proficiency for social workers in England were first published in 2012 prior to the opening of the Register to this profession. The Executive recently reviewed the standards following the conclusion of a three year programme of visits to pre-registration education and training programmes.

14.ii.3 During discussion the following points were noted:-

- a number of activities took place to support the review including surveys of stakeholders and a workshop;
- the draft revised standards were publicly consulted on between 1 April 2016 and 24 June 2016;
- 125 responses to the consultation were received;
- the advice of the social worker registrant member of Council was sought when considering the responses and preparing the revised draft standards; and
- the Education and Training Committee considered the paper at their meeting on 8 September and agreed to recommend it to Council for approval.

14.ii.4 The Council noted that the Education and Training Committee requested further consideration of the use of the term 'co-production'. Following a review, the Executive is confident the term is well understood in the profession.

14.ii.5 The Council expressed regret that DfE and the two Chief Social workers did not respond to the consultation, as this would have been an opportunity to work with the HCPC to make the improvements in social worker regulation in England they have stated are required.

14.ii.6 The Council approved the revised standards of proficiency for social workers in England and the text of the consultation analysis documents, subject to minor editing amendments and formal legal scrutiny.

#### **Item 14.iii.16/156 Consultation on revised CPD guidance**

14.iii.1 The Council received a paper from the Executive.



14.iii.2 During discussion the following points were noted:-

- the proposed consultation concerns a revised version of the long guide: 'Continuing Professional Development and your registration'. This will replace the existing guidance of the same title. The short guide will no longer be published as it is now distributed very little;
- the review has taken into account the findings of the market research study carried out by Qa research: 'Perceptions and experiences of the HCPC's approach to continuing professional development standards and audits';
- in the research, the guidance materials were viewed positively by the majority, with some requesting improved clarity in specific sections;
- the Education and Training Committee considered the paper at their meeting on 8 September and agreed to recommend it to Council for approval; and
- the consultation will run from October 2016 to January 2017.

14.iii.4 The Council agreed the text of the consultation document and draft revised guidance for consultation, subject to minor editing amendments.

#### **Item 14.iv.16/157 Annotation of medicine exemptions for orthoptists**

14.iv.1 The Council received a paper from the Executive.

14.iv.2 The Council noted that legislative amendments which came into effect on 1 April 2016 introduced exemptions to enable orthoptists to sell and supply certain prescription only medicines on their own initiative.

14.iv.3 A further amendment is needed in order to require orthoptists to obtain an annotation on the HCPC Register before using the exemptions in their practice. Due to a delay, this is now not expected to be in place until April 2017.

14.iv.4 During discussion the following points were noted:-

- the Council has discretionary powers to annotate the Register to indicate where a registrant has undertaken additional training;
- due to a drafting error in the legislation, there is currently no legal requirement for an orthoptist to gain an annotation on the Register before using the medicine exemptions in their practice;
- amendments to the legislation are currently planned for April 2017. If the HCPC exercises its powers to annotate the register the

requirement for annotation will be a regulatory expectation rather than an legal obligation, until the legislation is amended;

- if the Council exercises its powers, work to implement the annotation would proceed as originally planned, including publishing the standards in October 2016 and enabling education providers to request approval visits;
- advice from the Solicitor to the Council states that for public protection reasons, orthoptists should be expected to gain an annotation through completion of an approved programme before exercising the new entitlement; and
- the Education and Training Committee recommended to the Council publication of the standards and annotation at its meeting on 8 September 2016.

14.iv.5 The Council agreed that an update on the annotation of medicine exemptions for orthoptists would be provided to Council in May 2017 when the legislative amendments are expected to have been made.

14.iv.6 The Council agreed to;

- publish the standards for the use of exemptions by orthoptists and begin the process of approving programmes against those standards; and
- exercise its discretionary powers to annotate the Register entries of orthoptists who successfully complete approved training in the use of medicine exemptions (should the necessary legislation which would mandate this not be in place at that time).

#### **Item 15.i.16/158 Consultation on draft social media guidance**

15.i.1 The Council received a paper from the Executive.

15.i.2 The Council noted that the revised SCPE include a standard about appropriate use of social media. Guidance has been produced to support this standard.

15.i.3 During discussion the following points were noted:-

- HCPC have previously produced a page on the website with advice about how to use social media in a way that meets the standards, but during the review of the SCPE registrants requested specific published guidance;
- the Executive contracted a third party to undertake an online 'crowdsourcing' exercise to inform the development of the guidance.

313 people participated in the exercise, the majority were registrants. There were 2,081 contributions (ideas, comments and votes);

- the Executive also took into account the requests for advice received previously and the small number of fitness to practise cases which have involved inappropriate use of social media;
- at its meeting on 8 September 2016, the Education and Training Committee recommended the consultation document and draft standards to Council for approval; and
- it is proposed that the consultation on the draft guidance takes place between 3 October 2016 and 13 January 2017.

15.i.4 The Council agreed the text of the consultation document and the proposed guidance, subject to minor editing amendments.

#### **Item 15.ii.16/159 Consultation on the revised guidance on confidentiality**

15.ii.1 The Council received a paper from the Executive.

15.ii.2 During discussion the following points were noted:-

- the HCPC first published 'Confidentiality – guidance for registrants' in 2008;
- SCPE include requirements about respecting the confidentiality of service users' information;
- the Executive has reviewed of the guidance with the aim of ensuring that it remains relevant to registrants and accurately reflects changes to the SCPE;
- the guidance provided by other regulators has been reviewed, as well as relevant fitness to practise cases and queries received from registrants on this topic in the past;
- the Education and Training Committee recommended the consultation text and draft guidance to Council for approval at their meeting on 8 September 2016; and
- the consultation is planned to take place between 3 October 2016 and 13 January 2017.

15.ii.3 The Council agreed the text of the consultation document and the proposed revised guidance, subject to legal scrutiny and minor editing amendments.

**Item 16.16/160 Information Technology report**

16.1 The Council noted this paper.

**Item 17.16/161 Communications report**

17.1 The Council noted this paper.

**Item 18.16/162 Any other business**

18.1 There were no additional items for consideration.

Chair: Elaine Buckley

Date: 07.12.2016