

Council

Minutes of the meeting of the Health and Care Professions Council held in public as follows:

Date: Thursday 15 February 2024

Time: 10am

Venue: Videoconference (Zoom)

Present: Christine Elliott (Chair)
Rebekah Eglinton
Sue Gallone
Helen Gough
Geraldine Kinkead-Richards*
John McEvoy
Jordan McKenna*
Lianne Patterson
David Stirling
Kathryn Thirlaway
Steven Vaughan
Valerie Webster

Apologies: None

In attendance:

Fatma Ali, Head of HR
Zoe Allan, Business Manager
Claire Baker, Head of Adjudication Performance
Francesca Bramley, Governance Manager
Alastair Bridges, Executive Director of Resources
Laura Coffey, Executive Director of Fitness to Practise and Tribunal Services
Gareth Davies, Head of Insight and Analytics (for item 7)
Brendon Edmonds, Head of Regulatory Development and Performance (for item 7)
Vanessa Fattal, HR Administrator
Karen Flaherty, Head of Governance
Collette Higham, Professional Standards Authority
Anna Holdsworth, Capsticks LLP
Aditi Jaitly-Hindocha, Case Team Manager
Alan Keshtmand, Head of Finance
Bernie O'Reilly, Chief Executive and Registrar

* Council Apprentice

Andrew Smith, Executive Director of Education, Registration and Regulatory
Standards and Deputy Chief Executive
Miriam Uzoma, Hearings Officer
Cain Whitehead, Executive Assistant
Bernadette Wilby, Executive Assistant

Unconfirmed

Public Agenda

1 Chair's welcome and introduction

- 1.1 The Chair welcomed those present to the meeting of Council, including a number of observers who were individually welcomed by the Chair.
- 1.2 The Council Apprentices who had recently joined the Council, Geraldine Kinkead-Richards and Jordan McKenna, were attending their first meeting of the Council.

1(a) Apologies for absence

- 1.3 There were no apologies for absence.

1(b) Approval of agenda

- 1.4 The Council approved the agenda.

1(c) Declaration of members' interests in relation to agenda items

- 1.5 There were no interests to declare from Council members.

1(d) Minutes of the Council meeting on 30 November 2023

- 1.6 The Council approved the minutes as an accurate record of its meeting held in public on 30 November 2023.

1(e) Matters arising

- 1.7 There were no matters arising from the previous meetings held in public.

Standing reports

2 Chair's Report

- 2.1 The Council noted this item.

3 Chief Executive's Performance Report

- 3.1 The report from the Chief Executive highlighted key areas of development in the reporting period since the Council's last meeting in November 2023.
- 3.2 The Council noted the report and the following points.

- The appointments to two key leadership roles, the Head of Communications, Engagement and Public Affairs and the Head of Adjudication Performance. The Head of Fitness to Practise role had not been appointed to and would be readvertised imminently.
 - The investment in the development of colleagues at the HCPC, including the leadership development event for the Senior Leadership Group on 14 March 2024, at which Sir Robert Francis KC would be speaking.
 - The HCPC's input into the work of the Health and Social Care Committee Expert Panel, which was evaluating the progress in implementing the recommendations made by public inquiries and reviews, attended by the Executive Director of Education, Registration and Regulatory Standards.
 - The ongoing engagement with registrants and employers, recognising the limited involvement many may have with the HCPC through Fitness to Practise (FTP), which involved less than 0.5% of almost 340,000 HCPC registrants. These visits provided an opportunity to see the impact and consequences of the HCPC's policy decisions as well as dispel some misconceptions.
 - The recent publication of the HCPC's Principles for preceptorship and the report on the retention rates of international registrants, which followed on from the report on the retention rates for registrants through the UK application route published in January 2023.
 - The latest progress report for the 2023-24 Corporate Plan milestones included as appendix C of the report and the development of the Corporate Plan for 2024-25, to be considered later in the meeting. Financial sustainability was the most significant strategic risk for the HCPC and its financial position remained constrained in 2023-24 and would continue to be into 2024-25. The Council would also consider future fee reviews later in the meeting to ensure ongoing financial sustainability and the delivery of improvements in patient safety, innovation and customer service.
- 3.3 The Council discussed the number of vacancies within the HCPC, despite voluntary staff turnover having improved. It was recognised that the new recruitment portal would help the HCPC continue to attract the best people and create a strong first impression. It also included the functionality to build a talent network for future roles and had received strong applications through this route already. The length of time from resignation to advertising the role and the appointee's offer were monitored and internal processes for scheduling shortlisting panels and interviews had been strengthened.
- 3.4 The Council welcomed the focus on leadership within the HCPC, as leadership had also been the subject of a number of recommendations in the reports and reviews into patient safety now being considered by the Health

and Social Care Committee Expert Panel. The Panel included a number of chairs of previous inquiries, who had expressed frustration in understanding how the recommendations were being addressed, despite there being a role in government specifically responsible for tracking the progress of recommendations. There may also be wider lessons for all regulators from Ofsted and its response to the tragic death of Ruth Perry.

- 3.5 The proof of concept work to test the use of artificial intelligence (AI) to support processes in Registration was also welcomed by the Council. It was recognised that this would be a considerable advance for the organisation given that the move from paper applications had been relatively recent.

4 Finance Report

- 4.1 The Council received a report from the Executive Director of Resources and the Head of Finance, outlining the HCPC's financial position as at December 2023, the end of the third quarter of 2023-24.

- 4.2 The Council noted the following points.

- The reduction in the forecast for the end of the financial year to a £1.3 million surplus, compared to the previous forecast surplus of £2.7 million at the end of November 2023, due to the increase in legal costs associated with FTP referrals. The latest forecast was that FTP costs would reach £18 million at the year end, compared to a previous forecast of £15.5 million. The forecast was based on a projection of the current trend in FTP referrals and was therefore subject to change.
- If the forecast surplus was achieved then the HCPC would be within its reserves policy, holding positive net assets (less intangible assets).
- Income from the increase in international applications during 2023-24 was being used to ensure that the HCPC had the resources in place to continue progress towards meeting the Professional Standards Authority (PSA) Standards of Good Regulation in relation to timeliness, achieve standard 15 and maintain other standards.
- The continuing trend of a reduction in the number of international applications for registration between November 2023 and January 2024.
- The costs of £1.3 million associated with regulatory reform were unlikely to occur within the current or next financial reporting periods, however, there continued to be uncertainty around this.

- 4.3 The Council considered the increase in FTP referrals and the associated increase in legal fees. It was clarified that the costs of exiting a previous legal services provider contract and the transfer of cases to current legal services providers were one-off costs with only a small number of cases likely to be remaining following the end of the financial year as most had now been listed for final hearing. The adverse expenditure in the Chief Executive's Office was

also mainly related to legal costs. The Council questioned whether previous plans for the HCPC to appoint its own in-house counsel could help control legal costs by providing greater oversight over legal services providers.

- 4.4 The Council discussed capital expenditure and costs being carried forward, with deferred costs of £358,000 from 2022-23 and £150,000 from 2023-24. Most of the expenditure would occur in 2023-24 and this was principally due to issues around the timing of expenditure across financial years.
- 4.5 The Council questioned the levels of uncertainty and risk in the financial forecasts and planning. The Chief Executive confirmed that while the assessment of risk was subjective, the HCPC adopted a prudent approach in line with the measured risk appetite for financial risk. This was supported by dynamic reforecasting to enable the HCPC to be agile in response to changes and release funds for investment where appropriate. The Council endorsed the development of the medium-term financial plan to provide greater assurance around the financial risks through modelling a number of different scenarios and identifying the variables.
- 4.6 It was the role of the Chief Executive with the Executive Leadership Team (ELT) to assess these risks and uncertainties and put mitigations in place and ensure these were shared with the Council and there was an opportunity to discuss these. The reasons for the increase in FTP referrals and the fluctuating levels of international applications were not yet fully understood despite further investigation and enquiries. The Audit and Risk Assurance Committee of the Council also reviewed the risks in detail, reporting any concerns to the Council, and the mitigating factors noted in appendix 2 to the finance report applied equally to the other financial risks facing the organisation. The People and Resources Committee also reviewed financial performance and planning and the associated risks.

Action: The Chair of Council suggested that a comparative review of risks across the different healthcare professional regulators may be helpful to provide context for both the level of risk and risk appetite.

5 Fitness to Practise Performance Report

- 5.1 The Council received the report setting out on the progress of the FTP improvement programme.
- 5.2 The Council noted the following points.
 - The twelve week target for progressing a matter to interim order hearing from receipt of a concern was not being met and the time taken was 23 weeks. Performance was impacted by the time taken for third party investigations, mainly criminal investigations, to be progressed and receipt of additional information that changed the risk profile of cases. These measures indicated how effectively risk assessments for cases were completed and updated.

- Performance on the quality and timeliness of case plans had improved and was now meeting the target in December 2023 following a slight dip after the introduction of a new question to case plan front-line checks (relating to the timeliness of updates provided to relevant parties). This improvement was the result of successful work with the FTP team having identified the dip in performance. The team remained vigilant as this measure was based on checks of a sample of cases.
- The median age of cases closed monitored the balance between the progression of older and newer cases. In December 2023, the median age of cases closed at the threshold and Investigating Committee Panel (ICP) stage was 20 weeks, below the key performance indicator (KPI) of 33 weeks. More cases were being closed at the threshold and ICP stage, although work was needed to ensure that this KPI was met consistently. The median age of cases concluded at final hearing in December was 109 weeks; 216 weeks for the longest case and 21 weeks for the shortest. The shortest length of time for the conclusion of cases continued to reflect the positive impact of frontloading in progressing cases to a final hearing more quickly.
- There had been an increase in new cases since June 2023. There were no obvious trends based on profession, referral type or the nature of the concern and no change in the overall profile of referrals. The increase was not directly linked to the increase in registrants. Discussions with other regulators, which were experiencing a similar increase in referrals, and professional bodies had not identified any trends. Discussions had not yet taken place with employers to understand if they could offer any insight into the reasons for the increase in referrals.
- The increase in referrals was reflected in the volume of cases at the threshold stage, which had exceeded 700 in November 2023, and subsequently reduced to 641 cases in December. Open investigations, which had exceeded 800 cases in October and November 2023 had reduced to 760 by the end of December, bringing this in line with the caseload between April and September 2023. Work around the operating model as part of the improvement programme was helping the FTP team respond positively to the increase in referrals. This included the introduction of frontloaded investigations and legally qualified ICP chairs, as well as decisions relating to resourcing taken in autumn 2023. Resourcing continued to be reviewed as part of future planning.
- The update on the progress of phase 2 of the programme and planning for future improvement initiatives in 2024-25.

5.3 The Council returned to the discussion of legal costs in FTP and the mechanisms in place with legal services providers to monitor and control costs. These included monthly service level meetings and discussions on individual cases as potential issues arose. All cases identified for transfer from the previous legal services provider had been transferred to new legal

services providers and a large proportion of those cases retained had been listed for hearing in the final quarter of 2023-24 or the first quarter of 2024-25. Recruitment was ongoing for legally qualified roles in the FTP team to enable the transition of the work for frontloading investigations to be undertaken in-house within FTP thereby reducing external legal costs.

Actions:

- a. The Council requested that information about the sources of referrals for FTP concerns be included in the next FTP performance report to the Council.
 - b. Learning between the FTP and Registration teams in responding to peaks in activity would be shared as suggested by Council members.
- 5.4 The Council discussed demand management for referrals where there was no actionable concern or that were potentially vexatious, in order to provide certainty on the outcome to registrants at an earlier stage. These cases were closed at threshold stage, with 45-48% of cases closed at that stage and a KPI of ten weeks for closing cases at this stage.

Action: The data on closure of cases at threshold stage would be presented in the next FTP performance report to the Council.

- 5.5 The Council welcomed the introduction of the new quality measure to monitor the timeliness of updates on cases provided to relevant parties and wanted to understand what impact the improvements were having on those involved in the process. The surveys sent to participants at case closure and themes from complaints had demonstrated that the frequency and tone of communications was reducing as a cause for negative feedback. Discussions with registrants' representatives also provided an opportunity for feedback at an earlier stage.

Items for discussion/decision

6 Appointment of Senior Council Member

- 6.1 The Council agreed the appointment of David Stirling as the Senior Council Member with immediate effect for a term of two years ending on 14 February 2026 or the end of his term of office as Council member, if earlier.

7 Retention of international registrants insight data

- 7.1 The Head of Insight and Analytics and the Head of Regulatory Development and Performance joined the meeting for this item. The Head of Insight and Analytics gave a brief recap of the results of analyses of attrition rates for new registrants in the first four years of registration. The initial results had been presented to the Council at its meeting on 30 November 2023 and the purpose of this item was to allow more time for a discussion of the data with Council members following publication of the report.

7.2 The analyses had considered the key variables of profession, age at first registration, gender, nationality (including the World Bank income group of the country of nationality) and place of training (for UK training routes only as this data was not systematically collected for international registrants).

7.3 The five key messages from the analysis were:

- retention for registrants through the international route varied by profession, with the highest level of retention among operating department practitioners and the lowest among orthoptists;
- the gap in retention between the international and UK registration routes varied by profession, with smaller variation in professions such as speech and language therapists, occupational therapists and chiropodists, which may be linked to the nature of the work and the working environment;
- retention for registrants through the international route varied by World Bank country income groups: high income countries in Europe, other high income countries (principally North America and Oceania) and low and medium income countries (predominantly in Asia and Africa);
- variation in the retention for registrants through the international route was affected by age and sex, with the lower rates of retention among younger and female registrants, noting that the qualification route for various professions could affect the age at which registrants applied for registration; and
- the combined risk factors could lead to very low retention rates, and it was important to ensure recruiting organisations were aware of this and there was a programme of continuous replacement in place if required.

7.4 It was highlighted that the percentage of UK students on UK courses increased the retention of overseas students applying for registration through the UK route.

7.5 The information in the report was recognised as a powerful tool for engaging with providers and other stakeholders in health and care to support professionals registered with the HCPC and workforce planning. The Council discussed the extent to which they had seen the analyses reflected in their own experience of education and working with health and care professions.

7.6 It was noted that this model of younger professionals staying for a short period was a deliberate model in sectors such as law in the UK. In other health and care professions, such as doctors, nurses and pharmacists it was a mixed picture and there had been initiatives to retain staff in areas where they had trained and international staff with varying degrees of success. It may be helpful to share the analyses and insight with other professional regulators to establish whether there were any similarities or differences, particularly with other health and care professions.

- 7.7 There may be differences across the four nations of the UK, which had varying approaches to funding training for health and care professions and levels of vacancies, which impacted on retention. The availability of post-study visas in the UK and other short-term visa schemes could also be driving shorter-term working patterns for overseas students studying in the UK and for international registrants. Understanding whether it was a registrant's intention to work in the UK for a short period or whether this had been affected by experiences working in the UK would help inform any retention strategy for employers.
- 7.8 It was suggested that further research or studies may be required to follow up with registrants to understand the causal factors affecting the length of time they stayed in the UK or on the register. Registrants were now asked for the reasons if they notified the HCPC that they were leaving the register, however, not all registrants responded and not all registrants informed the HCPC that they were leaving the register by not renewing. Factors affecting retention of registrants through the international route. It was also clarified that some international registrants did not work in the UK and often registered in the UK because there was no equivalent register in the country in which they were working.

Action: The Council requested that consideration be given to whether there was any benefit for the HCPC or employers in encouraging those leaving the register to remain on it and maintain a connection with the HCPC and the UK.

Items for noting

8 Council reflection

- 8.1 The Council Apprentices, Geraldine Kinkead-Richards and Jordan McKenna, provided their reflections on the meeting. While they had not come to the meeting with any predetermined expectations, they had found the content of the meeting to be interesting and the discussions dynamic and reflective of the organisational values of the HCPC. There had also been a welcome focus on responding to the challenges facing the HCPC and taking learning into practice. The meeting had provided a space for these discussions to take place openly and honestly.
- 8.2 The clarity and content of reporting had also been praised at several points during the meeting.
- 8.3 Others observing the meeting were also invited to provide their feedback on the meeting to the Chair, ELT or the Council Secretary following the meeting.

9 Resolution

9.1 The Council resolved that the remainder of the meeting would be held in private, because the matters being discussed related to the following:

- (a) information relating to a registrant, former registrant or application for registration;
- (b) information relating to an employee or office holder, former employee or applicant for any post or office;
- (c) the terms of, or expenditure under, a tender or contract for the purchase or supply of goods or services or the acquisition or disposal of property;
- (d) negotiations or consultation concerning labour relations between the Council and its employees;
- (e) any issue relating to legal proceedings which are being contemplated or instituted by or against the Council;
- (f) action being taken to prevent or detect crime to prosecute offenders;
- (g) the source of information given to the Council in confidence; or
- (h) any other matter which, in the opinion of the Chair, is confidential or the public disclosure of which would prejudice the effective discharge of the Council's functions.

Item	Reason for Exclusion
10	H
11	H
12	H
13	H
14	C
15	H
16	C
17	H

The meeting was adjourned at 12pm.

Chair:

Date: