
Education and Training Committee – 18 November 2010

Health and Character Policy

Executive summary and recommendations

Introduction

The current Health and Character Policy was last revised and approved by the Committee in December 2008. The policy currently provides that all cases where the registrant notifies HPC of an issue that may affect their fitness to practise should be considered by a Registration Panel who will decide whether the matter should proceed to the fitness to practise process. Where the case raises very serious concerns and it is considered that an interim order may be necessary, legal advice is sought and the case proceeds straight to the fitness to practise process.

The CHRE report following their audit of initial decisions which took place in December 2009, recommended that the HPC consider reviewing the approach of the Registration Panel in assessing self-referred allegations. The reason for this was to ensure consistency in the management and investigation of cases and decisions made by panels.

As part of that review a paper was provided to the Committee in June 2010 providing an overview of the current self referral process operated by the Fitness to Practise Department in line with the Council's Health and Character Declarations Policy.

Since that paper further review of the process has been undertaken to ensure that the concerns raised by CHRE were fully addressed. As a result of that review it is proposed that self referrals cases should be considered as set out below.

Proposed approach to self referrals

Cases will be assessed on receipt to determine if the information disclosed is sufficient to suggest that the registrant's fitness to practise is impaired, then it may be appropriate for the matter to be investigated further under Article 22(6) of the Order. Article 22(6) is the provision for a case to be considered as fitness allegation when it has not been received in the normal way and is a decision for the Chief Executive and Registrar. Legal advice is sought in all cases where consideration is given to proceeding under Article 22(6).

If the matter referred to the HPC does not meet the standard of acceptance for an allegation on receipt, but it is likely to do so should further information be available, further investigation will be undertaken.

Length of time

Analysis has been undertaken of the time it takes self referral cases to reach a Registration Panel, and for those cases that are referred to the fitness to practise process, the length of time it takes cases to reach an Investigating Committee Panel. The table below summarises the length of time.

Process	Mean months	Median months
Self referral received to Registration Panel	4	3
FTP allegation made to Investigating Committee Panel (Article 22(6) cases)	4	3
Self referral received to Investigating Committee Panel	8	6
FTP allegation made to Investigating Committee Panel (all cases)	5	5

The mean length of time for a self referral case to reach a Registration Panel is four months, and the median is three months.

For cases referred to the fitness to practise process and considered under Article 22(6), the mean length of time for a case to reach an Investigating Committee Panel for cases heard from April 2010 to August 2010 was a mean of four months and a median of three months.

Therefore, for self referral cases where no case to answer is found at Investigating Committee stage, the length of time a case is open is a mean of eight months and a median of six months. Across all cases considered through the fitness to practise process where there is no case to answer, the process takes a mean and median of five months from the date the allegation is made.

This means that registrants who refer an issue about themselves are subject to proceedings for a longer period of time than those where a case comes to HPC's attention from another source. The proposed approach will reduce the amount of time that registrants are under investigation by the HPC and ensure that cases are dealt with in a time and cost effective manner.

Decision

The Committee is asked to discuss and approve the revised health and character declarations policy.

Background information

In 2009-10 127 self referral cases were considered by Registration Panels.

The Registration Panel referred 61 cases to the fitness to practise process and did not refer 66 cases. Some of the cases considered by the panel would not have met the standard of acceptance for a fitness to practise case.

Of the cases referred, 24 were found to have no case to answer and 30 were found to have a case to answer. Three cases did not proceed following legal advice.

Of the cases received in 2009-10 and heard at a final hearing to date, 5 were found to be not well founded, 2 registrants were suspended and 4 were cautioned.

Resource implications

Case Team 3 within the Fitness to Practise Department manage Health and Character cases including self referrals. Panels meet and consider fitness to practise Investigating Committee cases and health and character cases at the same time. They currently meet seven times a month. Currently, cases that are referred to the fitness to practise process by a registration panel are considered twice prior to a final hearing (once by a Registration Panel and once by an Investigating Committee Panel).

Financial implications

Where cases are considered by two panels there are financial implications in preparing bundles and Panel Member and Case Manger time.

Appendices

Health and Character Declarations Policy – December 2008
Draft Health and Character Declarations Policy – November 2010

Date of paper

5 November 2010

HEALTH AND CHARACTER DECLARATIONS POLICY

INTRODUCTION

The Health Professions Order 2001 ('the Order') provides that registration decisions, including decisions on whether a person meets the prescribed requirements as to good health and good character, are a matter within the responsibility of the Education and Training Committee ('the Committee').

This document sets out the Committee's policy on dealing with health declarations and character declarations made:

- by applicants seeking admission or re-admission to the register;
- by registrants seeking to renew their registration; and
- at other times by registrants ("self referrals").

The HPC Standards of Conduct, Performance and Ethics set out HPC's expectations of registrants. It is also expected that anyone who wishes to be admitted to the HPC register will meet those standards. They are the basis on which HPC assesses complaints against a health professional and they are also the standards that will be used the Committee to help decide whether to admit a prospective registrant to the register.

REGISTRATION PANELS

All health and character declarations made to the Committee will be referred to a Registration Panel comprised of three members, at least one of whom will be a registrant from the same profession as the person concerned, and one of whom will be a lay member. If detailed health issues need to be considered by a Panel, the members will include a doctor.

The function of the Registration Panel is to provide a recommendation to the Committee on the course of action that should be taken in each case.

When considering health declarations, Panels should take account of whether the applicant/registrant has;

- sought medical or other support as appropriate;
- made reasonable adjustments to their working arrangements or agreed them with their employer; and
- restricted their scope of practice to those areas where they are confident that they meet the Standards of Proficiency.

In July 2008 the requirement for registrants to notify HPC of health issues was removed from the Standards of Conduct, Performance and Ethics. Health issues affecting an individual's fitness to practise still need to be declared on application or re-admission to the register and on renewal.

When considering character declarations, Panels should take account of;

- the nature and seriousness of the offence or misconduct;
- when the incident occurred; and
- the applicant's/registrant's character and conduct since the incident.

Registration Panels will be convened on a regular basis to ensure that cases are dealt with expeditiously for all of the professions HPC regulates.

ADMISSION/RE-ADMISSION

Applicants seeking registration by HPC must satisfy the Committee as to their good health and character.

Rule 5 of The Health Professions Council (Registration and Fees) Rules Order of Council 2003 provides that:

"5. – (1) For the purpose of satisfying itself as to the good character of the applicant, the Committee shall have regard to-

- (a) the character reference provided under rule 4(2) or (3);*
- (b) any conviction or caution which the applicant has received in the United Kingdom for a criminal offence or a conviction received elsewhere for an offence, which if committed in England and Wales, would constitute a criminal offence;*
- (c) any determination by a body responsible for regulating or licensing a health or social care profession to the effect that the applicant's fitness to practise is impaired; and*
- (d) any other matters which, in the opinion of the Committee, appear to be relevant to the issue,*

and for this purpose the Committee may seek information additional to that provided with the application for registration from any person or source as it considers appropriate.

- (2) For the purpose of being satisfied as to the physical or mental health of the applicant, the Committee shall have regard to -*
- (a) the health reference or other evidence provided under rule 4(2)(b), (4) or (5); and*
- (b) such other matters as appears to it to be relevant,*

and for this purpose the Committee may seek information additional to that provided with the application for registration form the applicant and from any other person or source as it considers appropriate and may require the applicant to be examined or further examined by a doctor nominated by the Committee.”

If an applicant declares a health or character issue, further inquiries should be made (in line with Rule 5(2) above) and the applicant must be advised that the information provided, and any further representations that they may wish to make, will be considered by a Registration Panel. The applicant must be given not less than 14 days in which to make any such representations.

The task of the Registration Panel in such cases is to make a recommendation to the Committee on whether the matters declared are of such a nature that the person concerned should not be admitted or readmitted to the register.

RENEWAL

Every two years, registrants are required to renew their registration. This involves making a declaration that:

- they continue to meet the HPC’s standards of proficiency for the safe and effective practice of their profession; and
- there have been no changes to their health or relating to their good character which they have not advised HPC about and which would affect their safe and effective practice of their profession.

Where a registrant is unable to make that declaration, the case will be considered by a Registration Panel in the same manner as a declaration made on seeking admission or readmission to the register.

The recommendation that the Panel is asked to make to the Committee is whether the matters declared are of such a nature that the registrant should not be allowed to renew their registration.

If an application for admission, re-admission or renewal of registration is refused by the Committee, the person concerned has a right of appeal to the Council against that decision and will be informed of that right at the time they are informed of the Committee’s decision.

SELF REFERRALS

Declarations made by registrants in accordance with paragraph 4 of the Standards of Conduct, Performance and Ethics must be provided in writing and, in the first instance, are to be treated as registration rather than fitness to practise issues unless:

- the same information is received from another source prior to, or at or around the same time as, receipt of a written declaration from the registrant ; or
- in the opinion of the Director of Fitness to Practise, the matter declared is of such a serious nature that it should be referred directly to the Investigating Committee.

If a matter is referred to a Registration Panel, the registrant must be advised that the Panel will consider the information which has been provided, and any other observations the registrant wishes to make, and must be given not less than 14 days in which to make any such representations.

The role of the Panel is to make a recommendation to the Council (not the Committee) on whether or not the issue declared is of such a nature that it should be considered as a fitness to practise allegation.

Registrants should be warned that if, on the basis of the Panel's recommendation, the Council considers that the registrant's fitness to practise has been brought into question, the matter may be referred to the Investigating Committee. At that point the matter will become a fitness to practise allegation by virtue of Article 22(6) of the Order and the procedures under Part V of that Order will then apply.

CASES THAT DO NOT REQUIRE A REGISTRATION PANEL RECOMMENDATION

Based upon the prior recommendations made by Registration Panels, the Committee has identified certain categories of cases where the information declared will rarely have a bearing upon admission, re-admission, renewal or continuing registration.

Although all convictions, cautions and other potential character issues must be declared to HPC, other than in cases where the Director of Fitness to Practise considers that such a referral should be made, the following matters do not need to be referred to a Registration Panel:

- juvenile convictions which were received more than 5 years prior to an application for registration being made except where:
 - the offence is serious;
 - there are multiple offences; or
 - the offence would lead to the person concerned being 'barred' under one of the UK Vetting and Barring Schemes; or

- conviction solely for driving (or being in charge of) a motor vehicle having consumed alcohol in excess of the prescribed limit where:
 - there are no aggravating circumstances connected with the offence (including but not limited to failure to stop or only doing so following a police pursuit, failure to provide a specimen, obstructing police, etc.);
 - the offence did not occur in the course of professional duties, en route to or directly from such duties or when subject to any on-call or standby arrangements; and
 - the penalty imposed does not exceed disqualification from driving for 12 months (with or without a fine).

- conviction solely for a:
 - parking contravention;
 - fixed penalty motoring offence; or
 - fixed penalty offence under a public transport penalty fare scheme.

December 2008

HEALTH AND CHARACTER DECLARATIONS POLICY

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This document sets out the Committee's policy on dealing with health declarations and character declarations made:

- by applicants seeking admission or re-admission to the Register;
- by registrants seeking to renew their registration. and
- at other times by registrants ("self referrals").

The HPC Standards of Conduct, Performance and Ethics set out the HPC's expectations of registrants. It is also expected that anyone who wishes to be admitted to the HPC register will meet those standards. They are the basis on which HPC assesses potential fitness to practise concerns about a registrant and they are also the standards that will be used by the Committee to help decide whether to admit a prospective registrant to the Register.

REGISTRATION PANELS

Health and character declarations made to the Committee by a person seeking admission and re-admission to the Register or on renewal of their registration will be referred to a Registration Panel. The Registration Panel will be comprised of three members, at least one of whom will be a registrant from the same profession as the person concerned, and one of whom will be a lay member. If detailed health issues need to be considered, the Panel will either include a doctor or receive advice from a medical assessor.

The function of the Registration Panel is to provide a recommendation to the Committee on the course of action that should be taken in each case.

When considering health declarations, Panels should take account of whether the applicant/registrant has;

- sought medical or other support as appropriate;
- made reasonable adjustments to their working arrangements or agreed them with their employer; and

- restricted their scope of practice to those areas where they are capable of meeting the Standards of Proficiency.

In July 2008 the requirement for registrants to notify HPC of health issues was removed from the Standards of Conduct, Performance and Ethics. In January 2011, the requirement for applicants for admission to provide a health reference was removed. However, applicants seeking admission, re-admission or to renew their registration still need to declare health issues which may affect their fitness to practise.

When considering character declarations, Panels should take account of;

- the nature and seriousness of the offence or misconduct;
- when the incident occurred; and
- the applicant's/registrant's character and conduct since the incident.

Registration Panels will be convened on a regular basis to ensure that cases are dealt with expeditiously for all of the professions HPC regulates.

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"5. – (1) For the purpose of satisfying itself as to the good character of the applicant, the Committee shall have regard to-

- (a) the character reference provided under rule 4(2) or (3);*
- (b) any conviction or caution which the applicant has received in the United Kingdom for a criminal offence or a conviction received elsewhere for an offence, which if committed in England and Wales, would constitute a criminal offence;*
- (c) any determination by a body responsible for regulating or licensing a health or social care profession to the effect that the applicant's fitness to practise is impaired; and*
- (d) any other matters which, in the opinion of the Committee, appear to be relevant to the issue,*

and for this purpose the Committee may seek information additional to that provided with the application for registration from any person or source as it considers appropriate.

- (2) For the purpose of being satisfied as to the physical or mental health of the applicant, the Committee shall have regard to -*

- (a) *the declaration provided by the applicant under rule 4(2)(b), and*
- (b) *such other matters as appears to it to be relevant,*

and for this purpose the Committee may seek information additional to that provided with the application for registration from the applicant and from any other person or source as it considers appropriate and may require the applicant to be examined or further examined by a doctor nominated by the Committee.”

If an applicant declares a health or character issue, further inquiries should be made (in line with Rule 5(2) above) and the applicant must be advised that the information provided, and any further representations that they may wish to make, will be considered by a Registration Panel. The applicant must be given not less than 14 days in which to make any such representations.

The task of the Registration Panel in such cases is to make a recommendation to the Committee on whether the matters declared are of such a nature that the person concerned should not be admitted or readmitted to the register.

RENEWAL

Every two years, registrants are required to renew their registration. This involves making a declaration that:

- they continue to meet the HPC’s standards of proficiency for the safe and effective practice of their profession; and
- there have been no changes to their health or relating to their good character which they have not advised HPC about and which would affect their safe and effective practice of their profession.

Where a registrant is unable to make that declaration, the case will be considered by a Registration Panel in the same manner as a declaration made on seeking admission or readmission to the register.

The recommendation that the Panel is asked to make to the Committee is whether the matters declared are of such a nature that the registrant should not be allowed to renew their registration.

If an application for admission, re-admission or renewal of registration is refused by the Committee, the person concerned has a right of appeal to the Council against that decision and will be informed of that right at the time they are informed of the Committee’s decision.

SELF REFERRALS

Declarations made by registrants in accordance with paragraph 4 of the Standards of Conduct, Performance and Ethics are treated in the first instance as registration rather than fitness to practise issues.

However, if the information disclosed is sufficient to suggest that the registrant's fitness to practise is impaired, then it may be appropriate for the matter to be investigated further under Article 22(6) of the Order. That decision is a matter for the Chief Executive and Registrar.

Although all convictions, cautions and other potential character issues must be declared to HPC, based upon the prior recommendations made by Registration Panels, the Committee has identified certain categories of cases where the information declared (whether by self referral or on admission, re-admission or renewal) will rarely have a bearing upon a person's registration.

Other than in cases where the Director of Fitness to Practise considers otherwise, no further action needs to be taken in relation to:

- juvenile convictions which were received more than 5 years prior to an application for registration being made except where:
 - the offence is serious;
 - there are multiple offences; or
 - the offence would lead to the person concerned being 'barred' under one of the UK Vetting and Barring Schemes; or
- conviction solely for driving (or being in charge of) a motor vehicle having consumed alcohol in excess of the prescribed limit where:
 - there are no aggravating circumstances connected with the offence (including but not limited to failure to stop or only doing so following a police pursuit, failure to provide a specimen, obstructing police, etc.);
 - the offence did not occur in the course of professional duties, en route to or directly from such duties or when subject to any on-call or standby arrangements; and
 - the penalty imposed does not exceed disqualification from driving for 12 months (with or without a fine).
- conviction solely for a:
 - parking contravention;
 - fixed penalty motoring offence; or
 - fixed penalty offence under a public transport penalty fare scheme.

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