

Education and Training Committee, 3 March 2016

Review of Health and Character Declarations Policy

Introduction

At its meeting on 19 November 2015 the Committee considered the latest biennial review of health and character declarations made by applicants for registration or for readmission to the register or by registrants on renewal of registration.

In noting the continued effective operation of the declarations process over the two year review period (April 2013 – March 2015) the Committee agreed that the Executive should produce a draft revision of the Health and Character Policy, which was last reviewed in September 2013, for consideration at the March 2016 meeting.

Proposed changes to Policy

The key amendments to the Policy, produced in conjunction with Special Counsel, give detail to the broad criteria already agreed in principle by the Committee. These were outlined in the health and character review paper (ETC 36/15) considered at the November meeting.

If approved by the Committee, these changes will significantly reduce the number of declarations needing to be considered by a Registration Panel through enabling a more flexible use of administrative sign-off by Fitness to Practise Department managers. The changes will mean there is a presumption of administrative approval where:

- a caution or conviction has already been considered by the applicant's education provider;
- a caution or conviction relates to an offence unlikely to have a bearing on the person's fitness to practise and - in respect of a conviction - is also more than five years old, did not result in a custodial sentence and there have been no subsequent convictions;
- a conviction is for drink driving with disqualification not exceeding 12 months (which is already in the current Policy) or "drug driving" (which is not) provided there are no aggravating features;

- a conviction is for another motoring offence, unless the public have been put at risk; or
- a declaration relates to disciplinary action in employment unconnected to health or social care unless involving certain specified conduct (eg violence or dishonesty).

Reducing unnecessary declarations

At its November meeting the Committee also considered that the Executive should revisit the guidance provided to applicants for registration with the aim of reducing the number of “protected” cautions and convictions declared unnecessarily (paragraph 4.2 of ETC 36/15 refers).

The “Apply” section of the HCPC website and the “Guidance on health and character” booklet already explain clearly the circumstances in which cautions and convictions are protected. But the Guidance document is due for review in Spring 2016 to reflect the recently revised Standards of Conduct, Performance and Ethics and we can use this opportunity to look again at the information provided on when cautions/convictions should not be declared.

Applicants refused registration

The Committee asked the Executive to review any cases where graduates had been refused registration on the basis of a character declaration which had already been considered by the university.

This review has shown that of 49 cases refused by Registration Panels during the two year review period only one clearly involved a declaration (of two alcohol-related convictions) which had previously been considered by the education provider. Until now we have not needed expressly to ask applicants about this so there may be other instances where the applicant has not told us. But with this caveat there appear to be no concerns that providers are frequently getting it wrong by allowing students onto courses, or allowing them to stay on courses, following a criminal offence which would result in refusal of HCPC registration.

Decision

The Committee is asked to approve the attached revised Health and Character Declarations Policy.

Background information

In its consideration of ETC 36/15 the Committee accepted the Executive’s recommendation that the Policy should be updated in order to move towards greater use of administrative sign-off of declarations. This shift recognises that over the two

year review period some 95% of applicants whose declarations were referred for consideration by Registration Panels were approved for registration.

An increase in the proportion of declarations approved administratively will minimise delays for applicants while also enabling some Fitness to Practise Department resource to be diverted to other priorities.

Resource implications

There are no additional resource implications.

Financial implications

None

Appendices

1. Draft revised Health and Character Policy
2. Review of Health and Character declarations; April 2013 – March 2015 (ETC 36/15)

Date of paper

February 2016

Health and Character Declarations Policy

Introduction

The Health and Social Work 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 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 Health and Care Professions Council Standards of Conduct, Performance and Ethics set out the HCPC's expectations of registrants. It is also expected that anyone who wishes to be admitted to the HCPC register will meet those standards. They are the basis on which the HCPC 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 Assessment Panels

Health and character declarations made to the Committee by a person seeking admission or re-admission to the Register or on renewal of their registration will, **other than in the circumstances set out below**, be referred to a Registration Assessment Panel. The 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 **may** include a doctor or receive advice from a medical assessor.

The function of the Registration Assessment 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 the HCPC 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 Assessment Panels will be convened on a regular basis to ensure that cases are dealt with expeditiously for all of the HCPC professions.

Admission and Re-admission

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

Rule 5 of The Health and Care 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 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 Assessment Panel. The applicant must be given not less than 14 days in which to make any such representations.

The task of the Registration Assessment Panel in such cases is to make a recommendation to the Committee on whether the matters declared are of such a serious 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 HCPC’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 the HCPC 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 Assessment 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 serious 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 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 Registrar¹.

All convictions, cautions and other potential character issues must be declared to the HCPC². However, based upon the prior recommendations made by Registration Assessment 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.

Except where the Director of Fitness to Practise³ considers otherwise, no further action needs to be taken in relation to:

- **a caution or conviction received by a person before or while undertaking a programme of study approved by the HCPC which (as the case may be):**
 - **was considered by the education provider as part of its admission procedures and the person was admitted to the programme; or**
 - **was considered by the education provider under its student fitness to practise process and the person was not excluded from the programme;**
- **a caution for an offence which is not likely to have a bearing on a person's fitness to practise, including but not limited to an offence specified as being of that nature in the HCPC's Standard of Acceptance for Allegations;**
- **a conviction for an offence which is not likely to have a bearing on a person's fitness to practise and where:**

¹ under authority delegated by the Council

² other than a conviction or caution which is 'protected' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

³ or a person authorised to act on behalf of the Director

- **the conviction was received more than 5 years before the person applied for HCPC registration;**
- **the conviction did not result in the person receiving a custodial sentence (which includes any suspended term of imprisonment); and;**
- **the person has not been convicted of any other offence since that conviction;**
- a conviction for driving (or being in charge of) a motor vehicle having consumed alcohol in excess of the prescribed limit⁴ where:
 - there are no aggravating circumstances (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;
 - the penalty imposed does not exceed disqualification from driving for 12 months (with or without a fine); and
 - it is not a repeat offence;
- **a conviction for any other motoring offence unless there is evidence that the safety of the public or service users has or may have been compromised;**
- **disciplinary action taken by an employer which is unconnected to the practise of a relevant profession and does not relate to conduct involving**
 - **violence;**
 - **dishonesty;**
 - **inappropriate sexual behaviour;**
 - **substance abuse or the possession or supply of drugs; or**
 - **conduct of a racially motivated, homophobic or similar nature.**

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⁴ **A similar approach may be adopted in respect of a statutory 'drug driving' conviction but, before doing so, further inquiries may need to be undertaken concerning the source from which the person obtained the drug in question and, in particular, whether it was obtained in the workplace.**

Review of Health and Character Declarations: April 2013 – March 2015

1. Structure of the report

1.1 The report is structured to first provide basic statistical information about the DEC cases received in the two year period. These are broken down by type of declaration (ie admission, readmission, renewal), by category of issues declared (ie character, cautions/convictions, health) and by profession. Information is also provided on the time taken to resolve these cases.

1.2 The report then goes on to seek to identify patterns or trends evident from a detailed analysis of a sample of cases and considers what implications these may have for the Health and Character Policy and so for the management of this workstream going forward.

2. Statistical analysis

2.1 From April 2013 to March 2015 1782 DEC cases were logged. Of these 1707 (96%) were declarations made on application for admission or readmission to the Register and 65 (4%) were declarations made on renewal (the remaining 10 were logged in error).

2.2 This represents an increase of 34% over the previous two year period, which is not unexpected given the expansion of the Register, in particular with the onboarding of social workers in England from August 2012.

Declarations on admission/readmission to the Register

2.3 Anyone applying for HCPC registration, whether through admission or readmission, is required to declare any health issue that may affect their fitness to practise and any character issues. The latter include disciplinary action by an employer. Also treated as quasi-declarations are circumstances in which adverse information about an applicant has been brought to the HCPC's notice before an application has been made or, in the case of readmission applications, while the applicant has been deregistered. These individuals are entered on the watch list which ensures the Registration Adviser is alerted when an application is entered on the registration system.

2.4 The great majority of character declarations, however, relate to police cautions or criminal convictions. This remains the case notwithstanding legislative changes, which came into force in May 2013, removing the requirement for "protected" cautions or convictions to be declared. In essence,

cautions are protected if six years have elapsed since the date of the caution (or two years if the person was under 18 at the time). A conviction is protected if 11 years have elapsed since the date of conviction (or five and a half years if the person was under 18 at the time), it is the person's only conviction and the conviction did not result in a custodial sentence.

2.5 Cautions or convictions for "listed" offences will not be protected and must always be declared. There are more than 750 listed offences, including serious violent and sexual offences and other offences of specific relevance to the safeguarding of children and vulnerable adults.

2.6 Table 1 below shows the total number of admission/readmission declarations received in the two year period together with their outcome. Caution/conviction declarations are shown separately from declarations of other character matters.

Table 1 Total number of admission/readmission declarations received

	Health	Character	Conviction/Caution	Totals
Cases received	14	392	1301	1707
Considered by panel	1	219	707	927
Approved administratively	13	173	594	780
Admitted to Register (following panel consideration)	0	195	690	885
Not admitted to Register (following panel consideration)	1	24	17	42
% considered by a panel	7	56	54	54
% admitted to the Register (following panel)	0	89	98	95

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2.7 While, as indicated in paragraph 2.2 above, the number of cases is much higher than for the previous review period, the proportion approved for registration by a Registration Panel (95%) is in line with the previous two year period.

2.8 Of the total declarations received 46% were approved administratively under the Health and Character policy without reference to a Registration Panel.

2.9 For the 927 cases that were considered by a Registration Panel the mean and median times from receipt to the Panel date were 31 and 26 days respectively. This is unchanged from the previous two years. This period includes 14 days' notice which must be given to the applicant of the Panel date, though applicants may – and often do – waive this entitlement.

2.10 Table 2 provides a breakdown of admission/readmission declarations by profession. Social Workers have continued to constitute the highest number, representing 56% of the total. The next highest are Paramedics and Physiotherapists, each comprising 7% of the total. The professions with the lowest numbers are Clinical Scientists, Orthoptists and Prosthetists/Orthotists. This is consistent with the previous review period and is broadly aligned with the representation of these professions on the Register.

Table 2 Admission/readmission declarations by profession

Profession	Number	Health	Character	Conviction/Caution
AT	21	1	8	12
BS	41	0	7	34
CH	31	0	9	22
CS	8	0	4	4
DT	18	3	1	14
HAD	10	0	6	4
OT	110	3	30	77
ODP	102	1	16	85
ORT	1	0	1	0
PA	125	0	35	90
PYL	54	0	31	23
PH	117	0	27	90
PO	4	0	1	3
RAD	94	0	21	73
SW	957	6	193	758

SLT	14	0	2	12
Total	1707	14	392	1301

Declarations on renewal of registration

2.11 On completion of each two year renewal cycle registrants must make a declaration that since their last registration “there has been no change relating to your good character (this includes any conviction or caution, if any, that you are required to disclose) or any change to your health that may affect your ability to practise safely and effectively”.

2.12 Declarations made on renewal are treated in the same way as admission/readmission declarations. 65 such declarations were made in the review period compared to 51 in the previous two years. Table 3 shows the total of renewal declarations received. As indicated in paragraph 2.1 above, renewal declarations are a tiny proportion of the overall DEC caseload.

Table 3 Total of renewal declarations received

	Health	Character	Conviction/Caution	Totals
Cases received	10	19	36	65
Considered by panel	4	6	21	31
Approved administratively	6	13	15	34
Registration renewed (following panel consideration)	1	4	19	24
Registration not renewed (following panel consideration)	3	2	2	7

2.13 As with admission/readmission declarations the high proportion of cases approved for renewal of registration following consideration by a Registration Panel (77%) mirrors the previous review period. 52% of the total renewal declarations received were approved administratively.

2.14 The mean and median times between receipt of the renewal declaration and consideration by a Registration Panel were 36 and 26 days respectively, which represents an improvement on the 50 days reported in the last review.

2.15 Table 4 provides a breakdown by profession of the renewal declaration cases considered by a Registration Panel. This reveals little as the numbers will depend upon the timing of the individual professions' renewal cycles in relation to the two year period of the review. But the information is included here for completeness.

Table 4 Breakdown by profession of the renewal declaration cases considered by a Registration Panel

Profession	Number	Health	Character	Conviction/Caution
AT	1	0	1	0
BS	7	0	3	4
CH	1	0	0	1
DT	2	1	1	0
OT	1	0	0	1
ODP	5	0	1	4
PA	3	0	10	2
PYL	8	1	4	3
SW	3	0	1	2
Total	31	2	12	17

Category of declarations

2.16 Of the 1772 total new DEC cases (ie admission/readmission plus renewal) received in the review period:

- 75% (1337) were cautions or convictions;
- 23% (411) related to other character matters; and
- 2% (24) related to health.

These proportions differ little from the previous two years, when cautions/convictions represented 80% of the total and other character declarations 17%.

2.17 Of the 958 cases considered by a Registration Panel:

- 76% (728) were cautions/convictions;
- 23% (225) other character; and
- 0.5% (5) were health.

These proportions are not reflected, however, in the cases refused admission, readmission or renewal by a Registration Panel. Of a total of 49 refusals, 26 (53%) were other character declarations, 19 (39%) cautions/convictions and 4 (8%) health. "Other" character declarations refused are often those cases where an applicant has declared regulatory proceedings by another health regulator – eg because s/he is dual registered or has previously practised another profession and retrained – or, in readmission cases, has continued to practise using a protected title while deregistered. Other declarations of character matters leading to refusal have included capability concerns or inappropriate relationships with service users resulting in dismissal by a former employer and matters involving dishonesty. This is of a piece with the previous two year period.

2.18 The cautions/convictions resulting in refusal have usually involved either very recent offences, multiple offences over a prolonged period or single offences of a sexual nature or including dishonesty (eg benefits fraud). This again matches the previous review period and is consistent with the Health and Character Policy's focus on the nature and seriousness of an offence and its age as criteria for judging whether an individual is "capable of safe and effective practice".

2.19 Although numerically small, of 5 health declarations considered by a Registration Panel 4 were refused (during the previous two year period no health declarations were referred to a Registration Panel). The health conditions declared differed – two were mental health conditions, one a stroke and the other epilepsy – but a common factor was that either no information had been provided on how the condition was being managed or the medical information supplied did not support a conclusion that the individual was any longer capable of practising safely and effectively.

3. Patterns/Trends

3.1 The Fitness to Practise Department's Case Management System (CMS) does not currently capture information on the nature of declarations – eg the precise offence which has resulted in a caution/conviction, the nature of the matter necessitating a character declaration or the actual health condition. We are looking to make changes to address this going forward. Until now, though, the only way to obtain this information has been through manual analysis; and to do this for all 1772 cases received in the two year review period would be hugely resource-intensive.

3.2 Instead we have undertaken some sampling analysis with a particular focus on a 10% sample of the caution/conviction and character cases approved by a Registration Panel. This sample size strikes a sensible balance, being large enough for statistical validity without disproportionately diverting resources away from operational priorities. The sample cases were selected to ensure a match

with the overall caseload profile in terms of profession and the mix of admissions, readmissions and renewals.

3.3 The rationale for concentrating on cases approved by a Registration Panel was specifically to identify, before the Health and Character Policy is reviewed by the ETC early in 2016, whether the categories of declaration listed in the Policy as potentially suitable for administrative approval are still current or might be broadened. These have remained substantially unaltered since the Policy was first developed 10 years ago and are reproduced below:

- 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 (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.

3.4 The sample size was 91 cases. Of these 72 were caution/conviction declarations and 19 were other character declarations. The latter related predominantly to declarations of disciplinary action taken by former employers or to practising using a protected title while not registered. This second category is of interest given that unlawful use of a protected title has also been a common reason for Registration Panels to refuse registration (see 2.17 above). The difference in outcome seems to hinge largely on the Panel's view of the applicant's credibility. Panels have generally approved registration where the applicant has provided information to convince them that the conduct was inadvertent – eg because the need to renew registration had been overlooked during a period of domestic turbulence – or where the applicant has

acknowledged responsibility and undertaken not to repeat the conduct, even where that conduct has been deliberate rather than the consequence of an oversight.

3.5 Declarations of disciplinary action have generally been approved for registration where the matter declared has had no relationship to the applicant's capability of safe and effective practice (eg the former employment has been in an area unrelated to health or social care) and there is no element of dishonesty involved.

3.6 Caution/conviction declarations approved by Registration Panels have covered a range of offences – including criminal damage, minor public order offences, low level assault, minor drugs possession, driving offences, theft (including shoplifting) as well as one or two more unusual offences such as “failing to stop at a railway crossing” and “drinking alcohol in a sports ground”. Some convictions declared were very old (1978 being the oldest) but others were much more recent (2007 being the most recent).

3.7 Panels found declarations of relatively minor criminal offences to have no impact on individuals' capability of safe and effective practice. Others, however, were less clear-cut. Some applicants whose applications were approved had declared multiple cautions/convictions – 21 over a 20 year period from 1980 to 2000 and 18 during the period 1984-87 being the most conspicuous examples. A few (6) declarations included convictions resulting in custodial sentences. These were convictions in:

- 1980 for theft;
- 1984 for soliciting;
- 1987 for burglary;
- 2000 for causing unnecessary suffering to an animal;
- 2006 for immigration offences;
- 2010 for insurance fraud.

The sentences were short, between one month (causing unnecessary suffering to an animal) and eight months (seeking to obtain leave to remain in the UK by deception).

3.8 The common themes emerging from our sample analysis are:

- typically, cautions/convictions declared relate to misdemeanours of the applicant's teenage years or as a student, and in the latter instance are

often alcohol-related. The sorts of offences committed are minor theft (eg shoplifting of low value goods), criminal damage (eg breaking a window or damaging a parked car), minor public order offences (eg urinating in public), possession of small amounts of drugs for personal use and assaults at the least serious end of the spectrum;

- where multiple cautions/convictions have been declared these have only rarely included convictions resulting in a custodial sentence;
- those convictions that have resulted in a custodial sentence have been old and/or of a type not directly relevant to professional practice.

4. Conclusions/Implications for Health and Character Policy

4.1 In terms of its operation the health and character process continues to work well. The last two year period has shown no significant changes to the type or nature of declarations made either on admission/readmission or on renewal. DEC cases are being managed effectively with the support of additional temporary resource during the summer/autumn peak and, together with sharing the workstream across two case teams, this has enabled turnaround times to be maintained in the face of an increase in volume of one third over the previous two year review period.

4.2 The increase in volume of declarations resulting from the growth in the Register has to an extent masked the impact of the changes in the rehabilitation of offenders legislation outlined in paragraphs 2.4 - 2.5 above. These changes should have resulted in a reduction in the number of declarations. We do not routinely record reasons where declarations have been approved administratively but we know that a substantial number have been approved because protected cautions/convictions have been unnecessarily declared. The HCPC's publication entitled "Guidance on Health and Character" explains clearly the circumstances in which cautions/convictions are protected but it may be that applicants are deciding to "play safe" and declare these anyway. This is supported by a review undertaken of a snapshot of caution/conviction declarations made during the 2015 seasonal peak. Of 174 such declarations received in August – September 2015 26 (15%) related to cautions/convictions which were protected. We will consider, in conjunction with colleagues in the Communications and Registration Departments, whether additional guidance can be provided to discourage applicants from making these unnecessary declarations.

4.3 Offences committed by applicants while they are undertaking a HCPC-approved programme of study will normally be considered by the education provider within its own process. The Standards of Education and Training require providers to have "a process in place throughout the programme for dealing with

concerns about students' profession-related conduct". It is questionable, therefore, whether referring offences already considered in this way to Registration Panels is a necessary additional safeguard. We are exploring this further in conjunction with Education Department colleagues as part of our work on revising the Health and Character Policy.

4.4 The categories of declaration warranting administrative approval without reference to a Registration Panel as set out in the Policy (paragraph 3.3 above) are very prescriptive and this rigidity gives rise to anomalies. For example, the new offence of drug driving is similar to the long-standing drink driving offence and should therefore arguably be included in the approval categories. Furthermore some might regard a drink (and in future drug) driving conviction resulting in a 12 month disqualification as potentially of greater concern than a police caution for possession for personal use of a small amount of cannabis. At present the former would normally be approved administratively but the latter would have to be referred to a Registration Panel. Indeed the current categories make no provision for administrative approval of caution declarations. This is understandable as at the time the Policy was developed cautions were used more sparingly by the police whereas they are now used as a disposal more frequently and for a wider range of offences.

4.5 If the ETC agrees, we propose incorporating in the draft revised Policy a set of broader criteria for identifying declarations suitable for administrative approval. These would aim to ensure that matters having a clear bearing on an applicant's capability to practise safely and effectively would continue to be considered by a Registration Panel while others, within clearly defined parameters, could be approved administratively. Administrative approval contains the safeguard that the decision is taken by a manager in the Fitness to Practise Department on the recommendation of the Case Manager so there is always a "second pair of eyes".

4.6 A reduction in the number of declarations that have to be considered by Registration Panels would minimise delay for applicants while also bringing efficiencies through reducing both Case Manager time spent preparing cases and attending panel meetings and the costs associated with Registration Panels. Based on the case analysis we have done there should be no increased public safety risk as these will be cases that are being approved by Panels anyway. Applying the broader criteria (outlined in paragraph 4.7 below) to the 91 cases in our sample analysis (3.4 above) suggests a reduction of 25 - 30% in declarations having to be considered by Registration panels.

4.7 As indicated above, we will do some more detailed work on this ahead of the ETC's consideration of a revised Policy. As an indication, though, and based

on our sample analysis, criteria for a presumption of administrative approval might include for example:

- unprotected cautions/convictions received while undertaking an approved programme of study and already considered within the education provider's internal process;
- other unprotected cautions unless for offences involving dishonesty or violence;
- unprotected single convictions more than (?) 5 years old unless for a "listed" offence or other offence involving dishonesty or violence or resulting in a custodial sentence;
- disciplinary action taken by a former employer if unrelated to health or social care unless involving dishonesty.

4.8 These examples are given simply as indicative of some possible broader categories that might warrant inclusion in a revised Health and Character Policy. Provided the ETC agrees with the principle of widening the categories of cases suitable for approval without reference to a Registration Panel, we will further consult colleagues in other HCPC departments and Special Counsel before coming forward with firmer proposals in early 2016.

Fitness to Practise Department
November 2015