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**Fitness to Practise Committee**

**Public minutes of the second meeting of the Fitness to Practise Committee held as follows:**

**Date:** Thursday 25 February 2010

**Time:** 10:30 am

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

**Members:** John Donaghy  
Julia Drown  
Morag MacKellar  
Penny Renwick  
Keith Ross  
Deep Sagar  
Annie Turner  
Neil Willis

**In attendance:**

Anna van der Gaag, Chair of Council  
Michael Guthrie, Director of Policy and Standards  
Kelly Johnson, Director of Fitness to Practise  
Steve Rayner, Secretary to the Committee  
Marc Seale, Chief Executive

## Part 1 – Public Agenda

### Item 1.10/01 Chair's welcome

- 1.1 The Chair welcomed the Committee to the meeting.

### Item 2.10/02 Apologies for absence

- 2.1 Apologies for absence were received from Mary Clark-Glass.

### Item 3.10/03 Approval of agenda

- 3.1 The Committee approved the agenda.

### Item 4.10/04 Declaration of members' interests

- 4.1 Keith Ross declared an interest in items 11 and 24, which both included reports from CHRE. Keith's wife was a current CHRE Council member. The Committee did not consider this precluded Keith from discussion on either item.

### Item 5.10/05 Minutes of the last meeting

- 5.1 The minutes were accepted as a true record and signed by the Chair.

### Item 6.10/06 Matters arising from the last meeting

- 6.1 The Committee received a paper from the Executive recording the matters arising from the last meeting, and the actions taken in relation to those matters
- 6.2 The Committee noted the actions.

### Item 7.10/07 Chairs report

- 7.1 The Chair would be taking part in the recruitment exercise for Legal Assessors

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Various	a	ETC	AGD	Committee minutes	Draft DD: None	Public RD: None

## Item 8.09/08 Director of Fitness to Practise report

- 8.1 The Committee received a paper from the Executive providing a summary of the work of the Fitness to Practise (FtP) Department from October 2009 to January 2010. The report also included data on various aspects of the FtP process from 2008 to 2010.
- 8.2 The Committee noted that according to projections, the percentage of cases per registrant was unlikely to rise as a result of regulating psychologists.
- 8.3 The Committee noted that the rise in the number of cases during July was due to the transferring to HPC of existing practitioner psychologist cases.
- 8.4 The Committee noted that the forecasting model was designed to ensure that the average length of time to final hearings did not increase, despite changes in the amount of cases.

## Item 9.10/09 Monitoring Role

- 9.1 The Committee received a paper from the Executive for discussion providing examples of the key indicators used by the Executive to monitor and ensure the effective management of workload and resources. The paper was a result of a request at the October 2009 meeting of the Committee.
- 9.2 The Committee noted the wide range of data being collected.
- 9.3 The Committee noted that whilst it was useful to have access to the technical management information, such as that data attached to the Directors report at item 8, it was not necessary to see this information at every meeting. This information could be provided to the Committee formally each year as part of the FtP Annual Report.
- 9.4 The Committee agreed that responsibility for monitoring management data fell to the Executive Management team as a matter of course, but that data on key indicators and exception reporting should be submitted to the Committee, in order for it to fulfil its monitoring role. .

**ACTION:** **Director of Fitness to Practise** to provide data and a commentary on performance against key indicators to future meetings of the committee.

**ACTION:** **Director of Fitness to Practise** to submit the draft FtP Annual Report to the Committee for substantive discussion on a yearly basis.

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## Item 10.10/10 Length of time analysis

- 10.1 The committee received a paper to note from the Executive providing information on the management of fitness to practise cases, and why some cases vary in length of time to conclude. The Committee had requested the information at its meeting in October 2009.
- 10.2 The Committee noted that HPC published guidance for people involved in a number of aspects of the process, including case directions that sought to ensure the effective management of hearings and cases
- 10.3 The Committee noted that there may be other resources available to complainants, such as organisations that provide independent mediation.
- 10.4 The Committee noted that the paper was an extremely useful mechanism to understand the Fitness to Practise process, and that it should be shared with stakeholders such as professional bodies, and potentially developed for public use.
- 10.5 The Committee noted the report.

## Item 11.10/11 Expectations of complainants

- 11.1 The Committee received a paper from the Executive for discussion and approval outlining ongoing work on the expectations of complainants. The paper included the report into the expectations of complainants on HPC's Fitness to Practise processes by IpsosMori Social Research Institute and the plan for future work. The work plan also included work that was also part of the Communications department workplan
- 11.2 The Committee noted the value of getting feedback, and agreed that it would be important to keep this area of work under review.
- 11.3 The Committee noted that this work was linked to the work on alternative mechanisms to resolve disputes.
- 11.4 The Committee noted that the FtP process was not designed to be punitive. It was also important for all parties to understand that it was not HPC's role to resolve complaints. It was HPC's role to consider whether a registrants fitness to practise was impaired as a result of an allegation made against them.
- 11.5 The Committee noted that whilst the FtP process was not designed to be punitive, the minimum length of time for a case to resolve of 10 months would inevitably feel stressful to registrants involved.

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11.6 The Committee noted that it may be appropriate to signpost complainants to existing appropriate alternate mechanisms for resolving complaints. A method could be the development of a guide or map for complainants outlining circumstances when alternative mechanisms may be most appropriate in resolving complaints.

11.7 The Committee approved the work plan.

#### **Item 12.10/12 Fitness to Practise Department work plan 2010-2011**

12.1 The Committee received a paper from the Executive for discussion and approval setting out the FtP department work plan for 2010-2011, and providing a progress report on the 2009-2010 work plan.

12.2 The Committee noted that particular focuses for the Department would be on the delivery of two main projects; the development of an integrated case management system, and work on the expectations of complainants.

12.3 The Committee noted that the 2009-2010 work plan was largely complete.

12.4 The Committee noted that the high risk of significant tribunal costs recorded on the risk register was unlikely to change from high, due to the nature of the fitness to practise process.

12.5 The Committee approved the 2010-2011 work plan.

#### **Item 13 Sifting tools and the revised 'Standard of acceptance' practice note**

13.1 The Committee received a paper from the Executive for discussion and approval introducing changes to the 'Standard of acceptance' practice note, and asking for approval to make changes to the note in response to future trends as appropriate.

13.2 The Committee noted that registrants contributions to public forums such as social networking sites was a significant issue, particularly amongst Students and newly registered practitioners. Any ethical guidance developed should be shared with Education Providers.

13.3 The Committee noted that the Policy Department would be reporting to the Education and Training committee in June on CHRE work regarding student fitness to practise investigations.

**ACTION:** **Director of Policy and Standards** to ensure that social networking issues are taken into account in the above report to the Education and Training Committee.

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- 13.4 The Committee approved the changes to the report, and recommended the text to the Council, subject to minor editing changes.
- 13.5 The Committee agreed that, as future trends emerge, the Executive should revise the Practice note accordingly for approval by the Council.

**ACTION:** **Director of Fitness to Practise** to submit practise note to The Council for approval

#### **Item 14.10/14 Sharing the registrants response with the complainant**

- 14.1 The Committee received a report from the Executive for discussion and approval introducing the CHRE report on variations between the regulators in handling complaints. The report included the CHRE report, and a discussion paper from HPC, which included recommendations on future work.
- 14.2 The Committee were asked to discuss the report, and make recommendations as to whether HPC should change its current policy in relation to sharing the response of registrants to allegations with complainants.
- 14.3 The Committee noted that FtP cases were not intended as complaint resolution processes. A complaint may form part of HPC's action against a registrant, but HPC did not seek to uphold complaints as such. The case itself was brought by the HPC against the registrant.
- 14.4 The Committee supported the conclusion that it did not naturally follow that a complainant had a right to information from the registrant in FTP cases. It would however be important to ensure that guidance for complainants dealt with this distinction.
- 14.5 The Committee noted that HPC's legal advice was that it was not a legal requirement to share the registrant's response. The Committee also noted that adding another step to the FtP process would inevitably increase the average duration of cases. Complainants expected cases to be resolved more quickly.
- 14.6 The Committee agreed to recommend that HPC should not change its policy in relation to sharing the registrants response to complainants.

#### **Item 15.10/15 Review of 'Not well founded' determinations**

- 15.1 The Committee received a report from the Executive for discussion and approval reviewing decisions made by panels in cases where allegations against a registrant's fitness to practise were found not to be well founded.

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- 15.2 The report made recommendations on further work for the Executive resulting from the conclusions of this report, and from the reports at items 11 and 14 on complainants.
- 15.3 The Committee noted that the start of paragraph 3.2 of the report should read “CHRE have considered 11 HPC cases...”.
- 15.4 The Committee agreed to the following recommendations.
- Further guidance should be provided to registrants on the meaning of fitness to practise
  - Further information should be provided to registrants on what information they should consider providing at the case to answer stage
  - No case to answer and not well founded decision making to be an ongoing focus at panel refresher training
  - Further exploration should be undertaken into the meaning of fitness to practise in HPC’s context
  - The Executive should keep under review the relevant practice notes in this area and update accordingly
  - When the HPC are unable to prove its case, clear and early indication should be provided to the registrant and complainant to that effect with clear criteria and assessment forms for doing so
  - Registrants are encouraged to attend hearings and to provide their representations.

**ACTION:** **Director of Fitness to Practise** to deliver the above recommendations as part of the workplan.

#### **Item 16.10/16 Alternative mechanisms for resolving disputes**

- 16.1 The Committee received a paper from the Executive for discussion and approval setting out a piece of work looking at alternative mechanisms for resolving disputes. The report was linked to work on the expectations of complainants and FtP work on reviewing decision making, and was intended to inform Council or Committee decisions on enhancements to the FtP process.
- 16.2 The Committee were invited to discuss the project, and approve the workplan set out in the paper.
- 16.3 The Committee welcomed the fact that the proposal did not just focus on mediation, and the opportunity to revisit the subject in more detail when the project was more developed.
- 16.4 The Committee approved the work plan.

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### Item 17.10/17 Reviewing decision making

- 17.1 The Committee received a paper from the Executive for discussion and approval introducing proposals to conduct an audit of panel decisions, and subsequently review the conclusions of that audit. The review was developed by the Executive following the CHRE's review of the General Social Care Council.
- 17.2 The Committee approved the approach to audit Panel decisions outlined in the paper, and instructed the Executive to provide a report on those audits every six months.

**ACTION:** **Director of Policy and Standards and the Director of Fitness to Practise** to arrange for a report to be submitted to the Committee every six months.

### Item 18.10/18 PKF FtP audit reports

- 18.1 The Committee received a paper from the Executive for discussion regarding two reviews undertaken in 2009 by HPC's internal auditor, PKF, into the FtP process. The reports had been commissioned and presented to the Audit Committee.
- 18.2 PKF recommended that, in addition to consideration of the audit by the Audit Committee, a report should be provided to the FtP Committee explaining the reasons why the date for a suspension order review had fallen after the date that the order expired, and the actions the Department had taken to address the matter.
- 18.3 The committee noted that the bulk of work and processes had been shown by the review to be effective.
- 18.4 The Committee noted the action taken by the Executive to address the relevant issues, and was content that appropriate processes would now be followed.

### Item 19.10/19 Case Management System update

- 19.1 The Committee received a paper from the Executive to note providing an update on the Case Management System project.
- 19.2 The Committee noted the update.

### Item 20.10/19 Date & time of subsequent meetings:

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
Various	a	ETC	AGD	Committee minutes	Draft	Public
					DD: None	RD: None



20.1 Subsequent meetings of the committee would be held at 10.30am on:

Thursday 3 June 2010  
Thursday 21 October 2010  
Wednesday 16 February 2011  
Thursday 26 May 2011  
Thursday 13 October 2011

## Part 2 – Private agenda

### Resolution

The Committee agreed to adopt the following resolution:-

“The Committee resolves that the remainder of the meeting shall be held in private, because the matters being discussed relate to the following;

information relating to a registrant, former registrant or application for registration;  
any issue relating to legal proceedings which are being contemplated or instituted by or against the Council; and  
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 23.10/23 High Court update

- 23.1 The Committee received a paper to note from the Executive providing an update on cases considered by the High Court since December 2008.
- 23.2 The committee noted that learning points from cases were fed back into the development of practice notes, Panel procedure development and training.

### Item 24.10/24 CHRE learning points

- 24.1 The Committee received a report from the Executive to note regarding reviews of Conduct and Competence and Investigating Committee decisions carried out by CHRE.
- 24.2 The Committee noted the report.

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**Signed:** .....

**Date:** .....

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