

Fitness to Practise Committee – 21 October 2010

Practice Note: Misuse of the HPC Collective Mark

Executive summary and recommendations

Introduction

HPC has a “HPC Registered” collective mark which registrants may use subject to the approval of the HPC. The attached practice note provides guidance to panels on how to deal with fitness to practise cases relating to the misuse of the collective mark and when it is appropriate to limit use of the mark. The Executive believe that it is unlikely that allegations regarding misuse of the mark are likely to arise regularly, however, it is important to provide guidance on the topic.

Background Information

There are three ways in which the logo can be misused:

1. use by a Registrant who has not received approval from HPC;
2. use by a Registrant who has been given approval for its use in a way that contravenes the regulations; or
3. use by someone is not on the HPC Register.

If the logo is used by someone who is not on the HPC Register, the misuse will be dealt with in accordance with Article 39 of the Health Professions Order 2001. That article sets out the offences that can be prosecuted under the order.

Decision

The Committee is asked to discuss the practice note and recommend that the Council approve the Practice Note – Misuse of the HPC Collective Mark

Resource implications

None

Financial implications

None

Appendices

Practice Note – Misuse of the HPC Collective Mark

Date of paper

24 September 2010

PRACTICE NOTE

Misuse of the HPC Collective Mark

This Practice Note has been issued by the Council for the guidance of Practice Committee Panels and to assist those appearing before them.

Introduction

The HPC has a “HPC Registered” collective mark (the **Logo**) which registrants may use subject to the approval of the HPC. A copy of the Logo appears in the Annex to this Practice Note.

The Logo is protected under the Trade Marks Act 1994 and the regulations made under that Act controlling the use of the Logo (the **Regulations**) include powers to enable Practice Committee Panels, in certain circumstances, to revoke or restrict a registrant’s use of the Logo.

Use of the Logo

Registrants may only use the Logo after they have received HPC’s approval to do so. Applications are made online, via the HPC website and, as part of the application process, registrants must agree to abide by the terms of use for the Logo set out in the Regulations before that are given permission to download and use it.

Misuse of the Logo

Panels are likely to encounter fitness to practise cases which relate to the misuse of the Logo in two ways:

- use of the Logo by a registrant without HPC’s approval; and
- use of the Logo by a registrant in a manner that contravenes the Regulations.

Primary responsibility for enforcing the Regulations rests with the HPC. Consequently, except where misuse or unauthorised use of the Logo first comes to light in the course of the Panel’s proceedings, cases relating to use of the Logo are only likely to be referred to a Panel where the registrant has been given an opportunity to take remedial action to end any breach of the Regulations, has failed to do so and, thus, where there is *prima facie* evidence of misconduct.

In cases involving misuse of the Logo, any allegation will specify what is alleged to have taken place and how this constitutes a breach of the Regulations. For example, Regulation 4.3.1 only permits the Logo to be used in connection with the name of the individual registrant and not in respect of a company, firm or other business;

Limiting use the HPC Mark

Regulations 5.3.2 of the Regulations enables a Practice Committee Panel, where it finds that an allegation is well founded to:

- revoke a registrant's use of the Logo:
 - for a set period of time;
 - for the period of time during which any conditions of practice are in place;
 - for the life of the registrant; or
- place restrictions on a registrant's use of the Logo.

Any action taken by the Panel in relation to use of the Logo is separate from (and may be in addition to) any Order the Panel may impose of the registrant by way of sanction. However, in cases where a Conditions of Practise Order is imposed on the registrant, any limitation on the registrant's use of the Logo may be included in that order.

The need for panels to take action in relation to use of the Logo is likely to be rare. It is expected that Panels will only need to do so where the matter is specifically brought to their attention of the Panel, although Panels retain the discretion to act irrespective of any submissions made.

For example, if a Panel make a Striking Off Order, the registrant will cease to have any right to use the Logo in any event and similar considerations apply for the duration of any Suspension Order. In other cases, where a lesser sanction has been imposed, the Panel will have determined that the registrant should be permitted remain in practice, albeit potentially subject to restrictions, and thus there is a presumption that the registrant should be permitted to use the Logo. Consequently, action to limit the use of the logo is only likely to be appropriate in cases:

- which relate specifically to proven misuse of the Logo; or
- where a Conditions of Practice Order has been imposed and the nature and extent of those conditions mean that it would be misleading to the public for the registrant to be permitted to use the Logo whilst those conditions are in place.

December 2010

THE HPC COLLECTIVE MARK

