

Unconfirmed
THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the twelfth meeting of the Health Committee held at **11a.m. on Thursday 14 April 2005** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Miss M Crawford (Chairman)
 Mr J Camp
 Professor T Hazell
 Dr C Kenny
 Dr J Old

IN ATTENDANCE:

Mr C Bendall, Secretary to Committees
 Ms S Butcher, Secretary to Committees
 Miss K Johnson, Director, Fitness to Practise
 Mr M Seale, Chief Executive and Registrar

Item 1.05/68 INTRODUCTION AND WELCOME

- 1.1 The Chairman welcomed all members to the last meeting of the Health Committee as currently formed.

Item 2.05/69 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following Council members; Ms R Levenson, Mrs C McGartland, Mrs J Stark, Professor D Waller and Dr A Van Der Gaag.

Item 3.05/70 APPROVAL OF AGENDA

- 3.1 The Health Committee approved the agenda.

Item 4.05/71 MINUTES

- 4.1 It was agreed that the minutes of the eleventh meeting of the Health Committee be confirmed as a true record and signed by the Chairman.

Item 5.05/72 MATTERS ARISING

- 5.1 The Chairman reported that mediation was a matter arising from the minutes of the previous meeting, however it was established that this was already on the agenda for discussion. The Director of Fitness to Practise reported that the decision making checklists had now been devised and successfully implemented subject to the recommendations made at the last Health Committee meeting.

Item 6.05/73 CHAIRMAN'S REPORT

- 6.1 The Chairman reported that the second meeting of the PLG for Health, Disability and Registration took place on the 24 February 2005. This was held in the style of a workshop, its purpose was to establish clear guidance on two documents: Becoming a Health Professional: - guidance for prospective applicants, parents, students, admission tutors, fieldwork co-ordinators and supervisors. The second document concerned providing information about the Health Reference that medical practitioners were asked to complete, ensuring that the information submitted was relevant for its purposes. This would be taken to the next Council meeting to be held in July 2005 for their approval.

Item 7.05/74 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 7.1 The Health Committee received the Director of Fitness to Practise Report.
- 7.2 The Director of Fitness to Practise reported that there had been 4 striking off orders, 3 suspension orders, 3 conditions of practise orders, 2 caution orders, 1 case had not been well founded and 3 cases were adjourned. One case had been referred to the Health Committee Panel by the Conduct and Competence Committee Panel and vice versa in March. The Health Committee noted that since its last meeting the fitness to practise department had been very busy. It was also noted that in 2004/05 that a total of 172 allegations had been received and matches the exact number of cases dealt with by Investigating Panels. The Director of Fitness to Practise reported that there were currently 13 cases within the remit of the Health Committee and of this number 6 cases required a review hearing and dates for 6 hearings had been fixed.
- 7.3 The Health Committee noted that further panel training had been arranged for 20th and 21st April 2005 and 6th and 7th June 2005. The next legal assessor review day was planned for 24th June 2005 and panel chair training would take place on 16th June 2005. Interviews for panel chairs were scheduled on 20th – 22nd April 2005, the President for HPC, Norma Brook with Sir Michael Schofield Director of the NHS Appointments Commission would convene the panels.

- 7.4 The Health Committee noted that meetings had taken place with the Council for Healthcare Regulatory Excellence (CHRE), Kingsley Napley Solicitors, Bircham Dyson Bell and additional relevant groups/bodies to help in the work of the fitness to practise department.
- 7.5 The team were working with the IT department to create an FTP tracking system, brochures, witness support pack, FTP Annual Report, Protocol with NHS Counter Fraud Squad, FTP Benchbook, Prosecutions Procedures and Health and Character Declarations (not references as stated in report).

Item 8.05/75 HEALTH COMMITTEE REPORT FOR THE ANNUAL REPORT

- 8.1 The Health Committee received a paper from the Secretary to the Committees for discussion/approval.
- 8.2 The Committee noted that a report was produced each financial year on the work of the Health Committee, noting key decisions made and its work in progress for inclusion in the Health Professions Council (HPC) Annual Report. The Chairman requested that after review of the document in hand, approval be given. Two corrections were highlighted for action, firstly in the third paragraph the Committee agreed that it should be made clearer who would be re-appointed and therefore recommended for the inclusion of ‘the medical practitioner’ in the following statement: ‘A new Council will take office on 11th July 2005 and the medical practitioner would be re-appointed for two years of that date.’ In the last paragraph the Committee also agreed that for the purposes of grammatical accuracy the word ‘that’ be included in ‘As health is a new issue the Committee agreed for the first year that a member of the Health Committee would Chair each Panel so that it was well informed when making decisions.’
- 8.3 The Health Committee approved the report to be submitted for the HPC Annual Report subject to these inclusions.

Item 9.05/76 AUTHORISED PERSONS

- 9.1 The Health Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 9.2 The Committee noted that Article 25(1) of the Health Professions Order 2001 provided for “authorised persons” to be appointed to conduct investigations on behalf of the practise committees.
- 9.3 Article 37(7) of that Order made similar provisions in relation to registration appeals and, by virtue Paragraph 8.7 of its Scheme of

Delegation, the Council had delegated to the Director of Fitness to Practise:

“...appointing authorised persons for the purposes of Article 37(7) and, by virtue of that provision, Article 25(1) of the 2001 Order in relation to registration appeal proceedings.”

- 9.4 The Committee noted that in order to ensure that any delegation by the Practise Committees was consistent with that made by Council, the Committee was asked to pass the following resolution:

“That the Committee’s power to appoint authorised persons for the purpose of Article 25(1) of the Health Professions Order 2001 be delegated to the Director of Fitness to Practise.”

- 9.5 The Director of Fitness to Practise reported that the paper had been scrutinised by the legal advisor for the Health Professions Council (HPC) and he was content with its structure.
- 9.6 The Health Committee approved the paper for Authorised Persons.

Item 10.05/77 REPORT ON THE 5TH REPORT ON THE SHIPMAN INQUIRY

- 10.1 The Health Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 10.2 The Health Committee noted that following Council’s meeting on the 2nd March 2005, the three fitness to practise committees’ had been asked to consider the Fifth Report of the Shipman Inquiry and its implications for the HPC. Council also recommended that the Committees consider and define what was meant by good practise.
- 10.3 The Director of Fitness to Practise reported that there would be huge cost implications if all of the recommendations made by Dame Janet Smith in the fifth Report of the Shipman Inquiry were to be incorporated into current HPC procedures. The recommendation for the appointment of legally qualified chairmen was raised as a concern as the cost of this would inevitably be passed on to the registrant by the raising of their fees. The Health Committee also noted the recommendation that consideration should be given to the appointment of a body of full-time panellists who could sit on the fitness to practise panels of all the healthcare regulatory bodies. A case management strategy was also being implemented that now separated the role of the hearing officer from that of the case manager. The hearing officer post was currently being recruited for and would be responsible for scheduling and managing hearings, including contacting the partners who are to serve on that Panel.

- 10.4 A specific area of concern for the Health Committee was the recommendation for seeking performance and health assessments from health professionals during a fitness to practise investigation. This would necessitate a change in HPC legislation as currently it provides that these assessments could be requested but can only be carried out with the consent of the health professional concerned.
- 10.5 The Chief Executive reported the latest developments that had evolved in response to the Shipman Inquiry, namely that two special committees had been set up by Lord Warner, Secretary of State for Health to specifically review the following issues:
- The Chief Medical Officer for England, Sir Liam Donaldson
Donaldson Committee:
1. Continuous Professional Development (CPD) and revalidation of the General Medical Council (GMC).
 2. Procedures to be used by healthcare regulators.
- Mr Andrew Foster, Director of Workforce
Foster Committee:
1. Continuous Professional Development (CPD) and revalidation of all other healthcare professionals.
 2. Fitness to practise procedures to be used by regulators of healthcare professionals
 3. Number of regulators required
- 10.6 The Health Committee noted that the Chief Executive and President of HPC had been asked to participate in a personal capacity in the Foster review but not as representatives of the HPC. The Chief Executive of the Nursing and Midwifery Council (NMC) Sarah Thewlis and their President Mr Jonathan Asbridge had also been invited to contribute to the discussions of the advisory group. No members from professional bodies had been asked to participate and to this end other regulatory bodies were currently petitioning Lord Warner for their voices to be heard. Two larger reference groups had also been set up to support these processes and were comprised of education and training bodies, professional organisations as well as consumer and healthcare quality interests.
- 10.7 The Health Committee noted that it was very important to ensure consistency was maintained across the board by healthcare regulators in the carrying out of their functions. As this was a key consideration of the Foster committee a consolidation was anticipated into fewer than the nine healthcare regulators that currently existed.
- 10.8 The Director of Fitness to Practise reported that a database had now been constructed which listed all pertinent contacts in Primary Care Trusts, police forces, local authorities and other relevant bodies to the HPC. The team administrator for fitness to practise, Miss Emma

Pearce had identified two key contacts for each body and was in the process of undertaking a mail shot which encompassed at least 900 employers. The role of the HPC had been explained in the letter and mutual points of contact listed to ensure that information about registrants was supplied in a timely and efficient manner.

- 10.9 The Health Committee discussed what mechanisms were in place which identified how successful HPC fitness to practise processes were. One way in which this was achieved was via the HPC Fitness to Practise Annual Report that demonstrated statistical verification of more efficient processing of cases. For example, it now took a total of 292 days from initial receipt of an allegation to the disposal of a case when previously with the Council for Professions Supplementary to Medicine (CPSM) it was a significantly longer period. The Chief Executive reported that the Council for Healthcare Regulatory Excellence (CHRE) had recently undertaken a performance appraisal of HPC, the results of which were very positive. This information would be provided at the next Council meeting on 12th May 2005.

Item 11.05/78 MEDIATION

- 11.1 The Health Committee received a paper from the Director for Fitness to Practise to note.
- 11.2 The Health Committee noted that the Alternative Dispute Resolution Group (ADR) had given an informal presentation to Council on 1st February 2005 regarding their function in assisting with mediation processes. Council had appointed the company ADR to assist with mediation on a case by case basis if and when the Fitness to Practise Director is directed by a Panel (via an appropriately qualified mediator).
- 11.3 The Director of Fitness to Practise reported that members had recommended for specific case examples to be provided that illustrated where mediation could be used but was unable to supply such information as no such cases had suitably transpired. In accordance with Article 26(6) and 29(4) a case had to be well founded before mediation could be undertaken (but not a fraudulent or incorrect register entry allegation). In practise mediation was not used by HPC as it was not congruent with the nature of the cases that it dealt with i.e. fitness to practise cases that concerned a registrant's health, conduct and or competence. The Health Committee noted that if a case was considered appropriate for mediation to be undertaken by the Practice Committee Panels, CHRE would most likely review the case and how it reached those findings. The Health Committee noted that it therefore had to be mindful of the implications of this.
- 11.4 The Chief Executive reported that errors had been made by the Privy Council in the drafting of the Health Professions Order 2001 ("the

Order”). One of these included the inappropriate placing of mediation, in addition to which reference to panel and alternate members had been omitted. In the next 18 months the Chief Executive would be requesting that the Privy Council review these errors for correction. The Health Committee noted that this would be very beneficial.

Item 12.05/79 CASE MANAGEMENT STRATEGY

- 12.1 The Health Committee received a paper from the Director of Fitness to Practise for information.
- 12.2 The Health Committee noted that in order for the Health Professions Council (HPC) to effectively manage its fitness to practice function in a manner which meets its primary obligation of protecting the public, it would need to implement a robust case management system/strategy. Part of this need had been driven by the implications of the 5th Report of the Shipman Inquiry. The role of the Hearing Officer and Case Manager was being separated so that caseloads could be more effectively managed. A Hearing Officer was therefore being recruited and 2 further Case Managers in 2005/06. The Case Managers would have a more proactive role in investigating cases. The Health Committee noted that Partner Chairs were currently being recruited. The first phases of interviews were scheduled for 20-22 April 2005 and the interview panel was comprised of Norma Brook, HPC President and Sir Michael Schofield from the NHS Appointments Commission.
- 12.3 The Health Committee recommended the following corrections be made to the case management strategy document, on page 3 to remove ‘and Primary Care Trusts’ and ‘NHS’ so that it read ‘strengthen relationships with employers of registrants to ensure that information about workplace disciplinary cases is shared;’.

Action: KJ

Item 13.05/80 FITNESS TO PRACTISE ANNUAL REPORT

- 13.1 The Health Committee received a paper from the Director of Fitness to Practise for information.
- 13.2 The Director of Fitness to Practise apologised for the late submission of the Fitness to Practise Annual Report, however as it was a lengthy and detailed document it had taken some time to devise. With this in mind the Health Committee members were asked to submit any comments for amendments, corrections and or inclusions to the Director of Fitness to Practise by Friday 22 April 2005 so that they may be incorporated accordingly.
- 13.3 The Chairman requested that on page 18 where depression was listed as one of the categories of health cases considered that this be removed

as it was covered by the second bullet point already – mental health issues. The following correction was also recommended instead of ‘This measure was imposed to ensure she was practising in areas where she was comfortable’ to read ‘This measure was imposed to ensure the registrant was practising in areas where she was competent. The Committee felt that it was appropriate to de-personalise the previous statement.

Item 14.05/81 ANY OTHER BUSINESS

- 14.1 The Chairman reported that she had not received any items of other business and requested whether the committee members had anything to report.
- 14.2 The Health Committee noted that it was very likely that the HPC would soon be regulating Applied Psychologists as a health profession. The result of the consultation phase would be addressed at the next Council meeting on 12 May 2005. The Health Committee noted that this would inevitably have resource implications for the HPC however the voluntary psychology body would be expected to deal with any outstanding fitness to practise cases before their entry to the HPC register. The Chief Executive reported that the government were also of the mind that HPC would in the foreseeable future be regulating psychotherapists and counsellors. The types of complaints received would therefore be varied in context and the HPC therefore had to be able to distinguish between those complaints that should and rightly be dealt with by the employers and those where it fell within the remit of the HPC.
- 14.3 The Health Committee noted that press releases would no longer be issued after Health Committee Panel Hearings. The determinations from health cases would still be made available on the HPC website and so were available if required.
- 14.4 Professor Hazell and Professor Old, who had been two of the original members of the Health Committee since HPC’s inception wished to pass on their gratitude on behalf of its members to Miss Crawford for her invaluable role and commitment as Chairman of the Health Committee. Members noted that Miss Crawford was not standing in the current HPC elections and would therefore be sadly missed. Miss Crawford thanked the Committee for all of their support and hard work that had been given. The Chairman reported that she was particularly proud of her involvement in the establishment of the Professional Liaison Group for Health, Disability and Registration and anticipated great progress to be made in this area. The Chief Executive also extended his thanks to both the Chairman and the committee members for all of their hard work. The Chief Executive confirmed that the first meeting of the new Council on Tuesday 12 July 2005 would be

primarily concerned with the election of the new President for the HPC.

Item 15.05/82 DATE AND TIME OF NEXT MEETING

- 15.1 The next meeting of the Health Committee would be at 11a.m. on Wednesday 7 September 2005.

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