FITNESS TO PRACTISE ANNUAL REPORT

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Foreword

Welcome to the third Fitness to Practise Annual Report of the Health Professions Council (HPC) covering the period 1st April 2004-31st March 2005. This report provides information about the HPC's work in considering allegations about the Fitness to Practise of registrants.

There has been a substantial increase in the number of allegations about registrants in 2005/2006, for the first time ever receiving in excess of 300 cases. We are also receiving more complaints from members of the public and we are working hard to ensure that our complaints process is accessible, transparent and fair.

This year the Council's Practice Committees have been looking at ways to improve the accessibility of the Fitness to Practise Complaints process and at ways to ensure that Fitness to Practise cases can progress smoothly and efficiently. This has included the approval of information to assist those in making decisions about fitness to practise and the approval of Standard Directions for Fitness to Practise cases. We are continually keeping under review the number, type, complexity and costs of Fitness to Practise cases. We have also looked at how the fifth report of the Shipman Inquiry will impact the work of HPC. More information about the work of the Fitness to Practise Committees and their broader policy making role can be found in the main annual report.

This report presents to you the ways in which Practice Committee Panels have handled the cases brought before them. It provides information about the number and types of cases that have been considered and the outcome of those cases.

We hope that you find this document interesting and useful in understanding more about the role of the Health Professions Council.

Keith Ross – Chair of Conduct and Competence Committee
Morag Mackellar – Chair of Investigating Committee
Tony Hazell – Chair of Health Committee

Introduction – The fitness to practise process, an overview

About the Health Professions Council

The role of the Health Professions Council is to protect the health and well-being of people who use the services of the health professionals registered with us. At the moment, we register members of 13 professions. We only register people who meet our standards for their professional skills, behaviour and health.

The professions that we regulate are as follows:

Profession	Abbreviation
Arts therapists	AS
Biomedical Scientists	BS
Chiropodists	CH
Clinical Scientists	CS
Dietitians	DT
Occupational Therapists	OT
Operating Department Practitioners	ODP
Orthoptists	OR
Paramedics	PA
Physiotherapists	PH
Prosthetists and Orthotists	PO
Radiographers	RA
Speech and Language Therapists	SL

For each profession there is a protected title which can only be used by people registered with us. More information about protected titles can be found at the end of this report.

You should always check that a health professional using one of the titles above is registered with the HPC. It is a criminal offence to use a protected title if you are not registered[1]. You can check whether a Health Professional is registered by logging on to www.HPCheck.org or calling 0207 5820866.

[1] If you have applied for registration and your application is still being assessed you can continue to use the title. We will protect the title Operating Department Practitioner from October 2006.

What is Fitness to Practise?

Fitness to Practise involves more than just competence in a registrant's chosen profession. When we say that a registrant is fit to practise, we also mean that they have the health and character, as well as necessary skills and knowledge, to do their job safely and effectively. We also mean that we trust our registrants to act legally.

Who can complain?

Anyone can make a complaint about a registered health professional. We receive complaints from other registrants, other health professionals, patients and their families, employers and the police. Registrants also have an obligation to provide us with any important information about conduct, competence or health. This means that registrants have to inform us about themselves and other registrants that they work with.

We can only consider complaints about fitness to practise. The types of complaints we can consider are about whether a registrant's fitness to practise is 'impaired' (affected) by:

- their misconduct
- their lack of competence
- a conviction or caution for a criminal offence (or a finding of guilt by a court martial);
- their physical or mental health; and
- a determination (a decision reached) by another regulator responsible for healthcare.

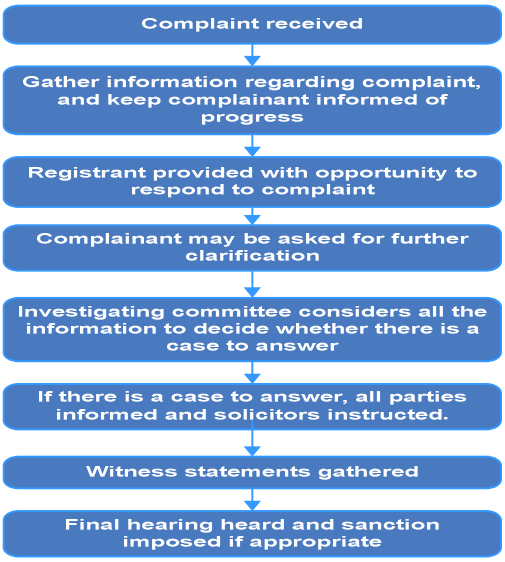
We can also consider allegations about whether an entry to the register has been made fraudulently or incorrectly.

Types of complaints

We can only consider allegations about people on our register. We can only consider allegations if they are due to the reasons set out above. We will consider individually each case that is referred to us. There is no time limit in which a complaint has to be made, but it should be made as soon as possible to prevent any legal argument on delay. We can consider complaints when the matter being complained about occurred at a time that the registrant was not registered.

The process

The process diagram below illustrates the procedures the HPC will adopt when a complaint is made about an individual on our register. If the complaint raises immediate concerns about public protection we can apply for an interim order. Interim orders are explained later in this report.



What happens when a complaint is received?

When a complaint is received, the matter will be allocated to a case manager who will be responsible for the case. We will then carry out an investigation into the complaint and provide the registrant with an opportunity to respond to the complaint. We are obliged to provide the registrant with 28 days in which to respond to the complaint.

The matter will then be passed to a panel of our Investigating Committee to determine whether there is case to answer that the registrant's fitness to practise is impaired. Case to answer means that the Council has to prove

that there is a prima facia case against the registrant that their fitness to practise is impaired. This panel meets in private and considers on the basis of the available documents whether we need to take any further action. Each panel is made up of at least three people, including a chair person, someone from the relevant profession and a lay person. This is important because it ensures good professional input and input from members of the public. The panel does not make a decision about whether the complaint is proven, they only decide whether it raises any concern about fitness to practise. If they believe it does, they will refer the complaint to another panel.

If the panel decides that there is a case to answer, they will refer the case to one of our fitness to practise committees. A panel, again made up of at least three people as above, will hold a hearing to consider whether the allegation against the health professional is proven. The role of these panels is to determine whether the case is well founded and if necessary impose a sanction.

The case will be referred to a panel of:

- **the Conduct and Competence Committee** for cases about misconduct, lack of competence and convictions and cautions
- **the Health Committee** for cases where the health of the registrant may be affecting their ability to practise.
- another panel of **the Investigating Committee** for cases where an entry to the register may have been obtained fraudulently or made incorrectly

Partners and Panel Chairs

HPC has appointed nearly 350 'partners' to help it carry out its work. Working as agents (not employees) of HPC, partners provide the expertise the HPC needs for its decision making. The Fitness to Practise department use panel members partners to sit on its panels and Legal Assessors who are appointed to give advice on law and procedure to the whole of the tribunal.

Since July 2005, HPC has been using specially appointed Panel Chairs to chair its Fitness to Practise Panels. Previously, Council Members undertook this role. However, in December 2004 Council passed a resolution which stated that, in order to ensure a separation between those who set Council policy and those who make decisions in relation to fitness to practise, council members no longer chair Fitness to Practise panels. We have 13 Panel chairs. This contributes to ensuring that our tribunals are fair, independent and impartial.

Partners are drawn from a wide variety of backgrounds – including those who work in clinical practice, education and management. They undertake a

two day training session on the issues that they will expect to face and are provided with regular updates throughout the course of the year.

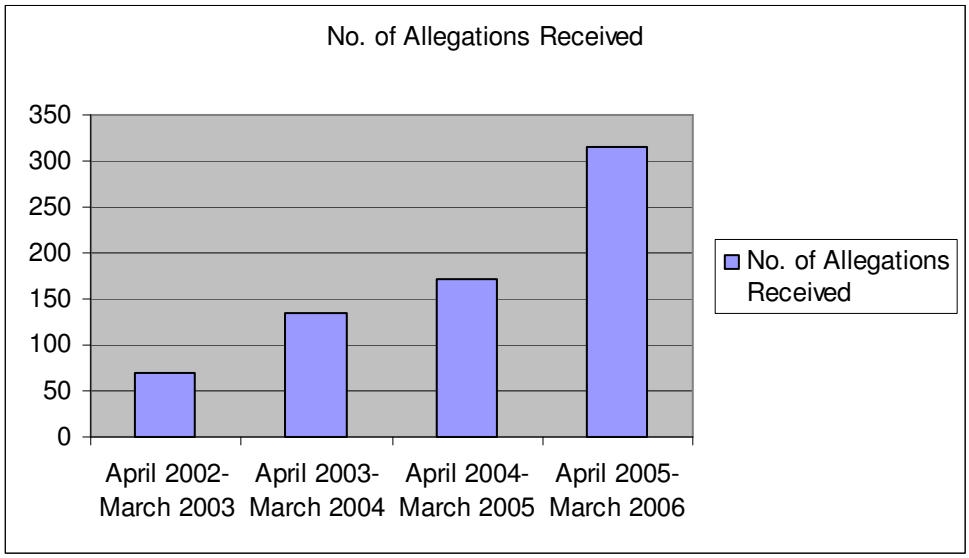
Allegations

This section provides an update of the numbers and types of allegations that have been received by the HPC. We have again seen an increase in the number of allegations received about health professionals

Table 1.1: Total Number of Allegations

Year	No. of Allegations Received
April 2002-March 2003	70
April 2003-March 2004	134
April 2004-March 2005	172
April 2005-March 2006	316

Table1.2: Total Number of Allegations



The charts above show that the number of allegations received by HPC has more than doubled since our first year of operating under our new rules and procedures and in fact has quadrupled since the last year of operating under our predecessor's rules (the Council for Professions Supplementary to Medicine).

We have seen an increasing awareness about the role of the HPC since 2004. We have undertaken an extensive advertising campaign which has included posters on the Underground and on the backs of buses, adverts in a variety of magazines and adverts on the radio. We have also seen an increasing number of media reports about the role of the HPC and have written to employers of registrants explaining the role of the organisation. We have also taken steps to ensure that our complaints process is more accessible

and transparent including the publication of brochures and taking complaints over the telephone

The table below shows allegations against registrants in 2005/2006, broken down by categories of complainants.

Table 1.3: Allegations by Complainant type

Type of Complainant	Number of cases	Percentage of Complainants
Public	68	21.59
Employer	123	38.73
Police	24	7.62
Article 22(6)	58	18.41
Other Registrant/Professional	28	8.89
Professional Body	0	0
Other(Co Worker)	15	4.76
	316	

Employers still make the highest number of complaints about registrants, in 2004-2005 the percentage of total complaints made by employers was 41.86% so there has been a slight reduction in the percentage of complaints made by this group. However, we have seen in 2005-2006 an increase in complaints made by members of the public and by Article 22(6) complaints (see below). The percentage of complaints made by members of the public in 2004-2005 was 16.86 so we have seen a 5% growth in the complaints received from this group. We envisage that as HPC becomes more widely know this will increase in 2006/2007. Developments in 2005/2006 which may have contributed to this include:

- the increasing number of registrants;
- increasing awareness of HPC;
- the increased accessibility of the HPC processes (two brochures were published in April 2005 explaining the processes operated by the HPC – both of these documents were Crystal marked by the Plain English campaign).

About Article 22(6)

The table also indicates an increasing number of allegations using the Council's Article 22(6) powers. In 2004-2005 the percentage of allegations made using this power was 11.63%.

When HPC becomes aware of a concern about a registrant's fitness to practise (this may be, for instance through an anonymous allegation or a newspaper report) the Council may make an investigation into the fitness to practise of the person concerned. This provision is set out in Article 22(6) of the Health Professions Order 2001. We have used this power extensively in

2005/2006. This power has been used when anonymous complaints have been received and the issue is of such a nature that investigation is required, and when we have seen media reports about the activities of registrants and have not received an allegation in the normal way. We have also used this power when it appears that an entry into the register relating to a registrant may have been incorrectly made. This shows our intention to actively use our powers to protect the public. We believe that the power to, effectively, make an allegation ourselves against a registrant is a vital part of how we can protect the public. Using this power has meant we have taken action where previously no action would have been possible because no allegation was received, and is an important part of how regulation protects the public

Allegations by profession

The next table shows the number of allegations we have received by profession.

Table 1.4: Number of Allegations by Profession

Profession	Numbers	%of total cases	Number of Registrants	Total% of registrants with cases
AS	2	0.63	2252	0.09
BS	21	6.65	20485	0.1
CH	61	19.3	12578	0.48
CS	3	0.95	3830	0.08
DT	7	2.22	6222	0.11
OR	0	0	1223	0
OT	38	12.03	26031	0.15
ODP	19	6.01	8420	0.21
PA	43	13.61	11973	0.36
PH	79	25	40037	0.2
PO	4	1.27	806	0.5
RA	27	8.54	23388	0.12
SL	12	3.8	10524	0.11
Total	316		167769	0.19

The highest percentage of allegations relative to numbers on the register relate to the prosthetists and orthotists. It is likely that this is a statistical blip due to the low numbers of registrants.

The highest number of allegations was made about physiotherapists in 2005-2006. As the largest profession this is a figure which is to be anticipated, however the percentage of cases relating to physiotherapists has increased by 6% this year. The other professions where we have seen a more than 1% increase in the percentage of cases are with the Chiropodists and

Biomedical Scientists. In all other professions there has been a percentage reduction in the total number of cases.

Despite the increase in the number of allegations received about health professionals, overall, it still remains the case that a very low number of professionals have a complaint made against them.

Types of complaints received

We have received a wide variety of complaints in 2005-2006 about registrants and the types of complaints received by profession is also widely diverging.

The next table shows who makes complaints about particular professions:

Table 1.5: Complaints by Profession

	Employer	Police	Public	22(6)	Professional	Other	Total
AS	0	0	1	0	1	0	2
BS	12	1	0	3	4	1	21
CH	6	4	33	10	7	1	61
CS	1	0	0	1	0	1	3
DT	5	0	2	0	0	0	7
ODP	11	1	2	2	2	1	19
OT	23	2	9	2	2	0	38
PA	17	2	6	15	3	0	43
PH	19	7	16	28	8	1	79
PO	3	0	0	0	0	0	3
RA	13	7	0	6	1	0	27
SL	10	1	1	0	0	0	12
	121	25	70	67	28	5	316

We are unable to provide the details of those complaints in this section because at the time of going to print, the matters are still being dealt with. They are therefore confidential and we need to ensure that the registrant cannot be identified by the material provided here.

Biomedical scientists

The majority of complaints received about Biomedical Scientist relate to their competence in accurately analysing results of tests. This is why we receive the majority of complaints about Biomedical Scientists from their employer.

Chiropodists and Podiatrists

Of the 61 complaints made about Chiropodists and podiatrists, 33 were from members of the public. This number makes up over 50% of the complaints that we receive from members of the public. We receive a high number of complaints about Chiropodists who work in private practice, and often HPC is the only portal through which a complaint can be made.

Operating Department Practitioners

Of the 19 complaints received about ODPs in 2005/2006, 11 came from the registrant's employer and no complaints came from members of the public. This is to be expected when considering the environment in which ODPs work. ODPs work in the theatre environment. The types of complaints we have received about ODPs are different to the types of complaints we have received about other health professionals. The majority of the complaints about ODPs have involved the misuse of controlled drugs, record keeping and criminal offences. We have had very few complaints about the competence of ODPs.

Paramedics

Complaints about Paramedics are varied. We receive complaints from employers, the public and other registrants. We have also received notifications of convictions and cautions. We have seen an increase in complaints about paramedics selling equipment on Ebay. It is interesting to note that no other profession has this type of complaint.

Physiotherapists

The highest number of Article 22(6) complaints have been made about physiotherapists. This number generally involves cases where an entry in to the register has been incorrectly made. In most instances this is as a result of a failure by the HPC to assess the application correctly

Speech and Language Therapists

Most of the complaints we receive about Speech and Language Therapists relate to their competence. We have also seen a number of complaints about the record keeping capabilities of Speech and Language Therapists.

Allegations by Route to Registration

Table 1.6: Allegations by Route to Registration

Route to registration	number of cases	percentage of complaints
UK	242	76.58
INT	30	9.49
GP (A)	10	3.16
GP (B)	25	7.91
Not known	7	2.22
	316	

Of the allegations made, the highest number of allegations are about registrants who have an approved qualification, however this percentage is lower than the percentage of registrants with an approved qualification (88.84%). We have instead seen an increase in complaints about registrants who applied for registration via the Grandparenting route to registration. The number of registrants on the register via this route is 3.1%, however the number of registrants with a case against them in 2005/2006 is 11.07%. A number of these cases relate to individuals whose entry into the register has been incorrectly made (this can be HPC's fault if we have failed to assess the application properly).

Table 1.7 : Allegations by location

Location of Registrant	Number of Cases
England	280
Scotland	10
Northern Ireland	3
Wales	10
Other	12

We receive the majority of our allegations against health professionals whose registered address is in England. 77% of registrants are located in England so this statistic is to be expected.

Allegations by type of Allegation

Table 1.8: Allegations by allegation

This table indicates the type of complaints that we receive about registrants.

Type of Allegation	number of cases
Conviction	43
Misconduct*	183
Lack of Competence	33
Health	2
Determination by another regulator	1
Fraudulent or Incorrect Entry	33

*This includes misconduct and lack of competence

The majority of our cases have a misconduct element to them. Misconduct can include (but is not limited to) the following:

- failure to act in the best interest of patients, clients and users;
- breach of confidentiality;
- sexual misconduct;
- dishonesty;
- acting beyond scope of practice;
- failure in communication;
- failure to get informed consent;
- poor record keeping; and
- failure to deal with the risk of infection.

We have also received a number of allegations in 2005/2006 concerning the misuse of drugs.

The professions regulated by the HPC are on the Home Office Circular for Notifiable Occupations. This means that we should automatically be informed when a registrant is cautioned or convicted of an offence. It should also be noted that the professions regulated by the HPC are exempt from the Rehabilitation of Offenders Act. This means that offences are not spent and can be considered as a part of a registrant's fitness to practise.

We receive notification about a wide range of offences. The type of offences we have been informed about in 2005/2006 include:

- drink related offences;
- assault and battery;
- sexual assault;
- sexual offences with minors;
- breaches of the Data Protection Act;
- offences concerning child pornography;
- GBH;
- harassment;
- theft;
- fraud;
- drugs related offences (prescription and non prescription).

We anticipate that 2006/2007 will see another increase in the numbers of allegations received about registrants.

The Investigating Committee

The role of panels of the Investigating Committee is to investigate any allegation which is referred to it and consider whether, in the Panel's opinion, there is a case to answer.

Case to answer is a paper based exercise at which the registrant does not appear. The function of this preliminary procedure is to help ensure that a registrant is not required to answer an allegation at a full public hearing unless the Council has established a *prima facie* case against him or her.

Panels meet in private and consider all the available information, including any information sent to us by the registrant in response to the complaint.

If the panel decides that there is a case to answer, it is at this point that we are obliged to publicise referrals. This means we have to inform the four UK Departments of Health and we place the name of the registrant, their registration number and the allegation on our website. However no other information will be available to the public at this stage.

In 2005/2006 panels of the Investigating Committee met 44 times and considered 178 cases to determine whether there was a case to answer in relation to the allegation received. In some instances the panel determined that there was insufficient information on which to make a decision and requested further information.

2005/2006 saw an increase in the number of cases where a case to answer decision was reached. In 2004/2005 the percentage of cases where the panel determined that there was a case to answer was 44%. In 2005/2006 this percentage was 58%. This means that more cases have to be considered by full panels of the various committees and incur the costs associated with this.

Decisions by Panels

Table 2.1: Case to Answer by Profession

Profession	Heard	FFI	C&C	ICP	HCP	No Case
AS	0	0	0	0	0	0
BS	11	0	7	0	2	2
CH	29	0	10	2	0	17
CS	0	0	0	0	0	0
DT*	9	1	3	0	0	5
OR	0	0	0	0	0	0
OT	27	1	11	0	2	13
ODP	14	0	10	2	1	1
PA	31	0	24	0	1	6
PH**	29	2	12	2	0	13
PO	3	0	2	0	0	1
RA***	17	2	6	1	0	8
SL	8	0	6	0	0	2
Total	178	6	91	7	6	68

The table above displays what decisions have been made by panels of the Investigating Committee. Of the cases considered by the panels, in the following professions more than half the cases considered have been found to have a case to answer.

- Biomedical Scientists
- Occupational Therapists
- Operating Department Practitioners
- Paramedics
- Physiotherapists
- Prosthetists and Orthotists
- Speech and Language Therapists

In the case of Operating Department Practitioners, Paramedics and Speech and Language Therapists, there is a higher than normal instance of "case to answer". This may be because of the types of allegations received about these three professions.

Table 2.2: Case to Answer by Complainant

Allegation Made by	Case to Answer	No Case to Answer	Further Information
Employer	64	13	2
Police	6	15	2
Public	6	26	1
22(6)	19	12	2
Registrant/Professional	6	4	0
Total	101	70	7

Of the cases considered by the Investigating Panel, there is currently a 58% case to answer rate. In 2004-2005 this percentage was 44%. We see a higher case to answer rate from cases that are referred to us by the employer and when Council uses its Article 22(6) powers than we do with allegations that are made by the public or which come to our attention via the Notifiable Occupations Scheme.

There may be a number of reasons behind this. Complaints made by employers are generally well articulated and have lots of supporting information. Employers have also gone through various capability proceedings. Complaints from member of the public are sometimes less well articulated and may concern subjects that we cannot deal with.

We are endeavouring to ensure our complaints process is accessible to all and in 2006-2007 will begin taking complaints over the telephone and will implement a complaints form to help to ensure that we can meet this goal.

We receive notification about a wide range of criminal offences, a number of these offences include drink driving offences which the panels have not felt have called the registrants fitness to practise into question. With drink drive cases, the panels have taken into consideration whether the registrant was working or on call at the time of the offence.

The panels have a wide range of information before them when considering whether there is a case to answer. In cases where the employer is the complainant, this may include the management statement of case and examples of record keeping. When we receive information from the police we seek to gather information about the circumstances of the conviction or caution to assist the panel in determining whether the conviction has a bearing on fitness to practise. When we receive complaints from members of the public, we sometimes ask for consent to access their medical records which can assist us with our investigations.

Table 2.3: Case to answer and Representation

Type of Complainant	Case to Answer	No Response	Response from Registrant	Response from Representative
22(6)	18	10	8	
Employer	62	18	32	
Police	5	2	3	
Professional	6	2	4	
Registrant	5	0	5	

It is very difficult to analyse whether a high 'no response' rate has any impact on whether a case to answer is found as each case is considered on its merits.

Speed of Process

On receipt of an allegation against a registrant, the case will be allocated to a case manager who will have responsibility for investigating the complaint. We will look in to the matter further, this for instance may include seeking information from the police or gathering further information from the employer. In some instances we may need to take witness statements.

We will write to the registrant and provide them with the information we receive. We will allow the registrant 28 days to respond, before we present the case to an Investigating Panel.

There may however be some delays in this process. The reasons for delay include requests for extension of time from the registrant and delays in our ability to gather the information that we require.

It is important to note that HPC do have powers to demand information if it is relevant to the investigation of a fitness to practise issue. We use this power to demand information from the police and from employers.

We may also delay our investigation until any proceedings undertaken by the employer have been concluded or when a criminal investigation is pending. It may also be necessary to delay our processes when we receive another allegation about the same registrant or the same allegation about another registrant.

However, every case will be treated on a case by case basis, and if the allegation is so serious as to require immediate public protection we can consider applying for an interim order. More information about interim orders is provided later in this report.

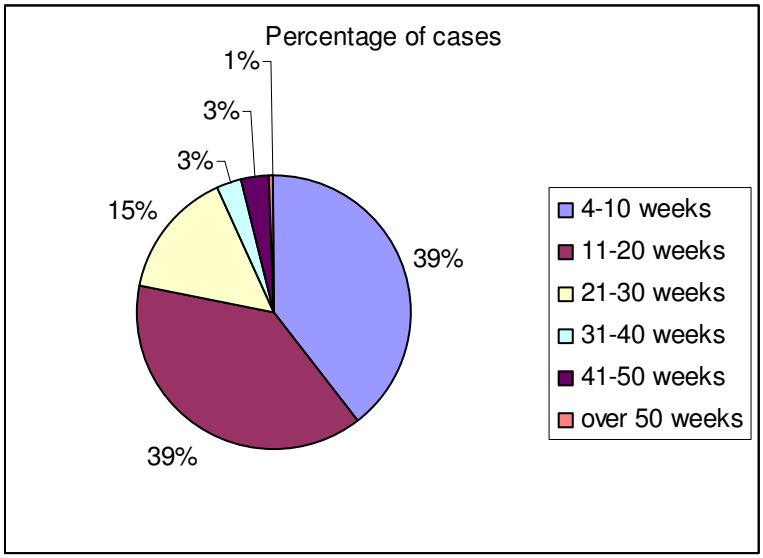
We are obliged to manage our case load expeditiously and we endeavour to ensure that we have the processes in place for this to occur. We need to balance the need to move complaints forward in order to protect the public

with the need to gather the information necessary for the registrant to respond to the case

Table 2.4 : Length of Time between receipt and initial Investigating Panel

Weeks	Cases in Time	Percentage of cases
4-10 weeks	70	39.33
11-20 weeks	69	38.76
21-30 weeks	27	15.17
31-40 weeks	5	2.81
41-50 weeks	6	3.37
over 50 weeks	1	0.56
total	178	

Table 2.5: Length of Time/Percentage of Cases



The average length of time taken for a case to reach an Investigating Panel is 15 weeks. 78.09% of our cases reach a panel within 20 weeks. We consider that 20 weeks is a reasonable time for a case to reach this stage as it is necessary for us to gather the appropriate information. Where there have been delays it is for the reasons set out above. There has been one case in 2005/2006 which took over 50 weeks to reach a panel. This was because there was a delay in the processes being operated by the employer.

At the end of March 2006 a further 154 cases were awaiting consideration by panels of the Investigating Committee.

Incorrect Entries

HPC can consider allegations about whether an entry to the register has been made fraudulently or incorrectly. Decisions about such cases stay within the remit of the Investigating Committee. If a panel decide that an entry to register has been made fraudulently or incorrectly they can remove or amend the entry or take no further action. In 2005/2006 panels of the Investigating Committee considered five cases (although in two instances the case was adjourned). A list of the cases considered is provided below. In 2004/2005 no such cases were considered.

We feel that this indicates that not only are HPC able to consider such cases but have robust processes in place which ensures that we can resolve any issues with regards to registration.

The cases considered in 2005/2006 included two individuals who had applied for registration via our Grandparenting route. It was determined by the panels that they were not eligible to apply for registration via this route and so they were removed from the register.

Table 3.1: List of Incorrect Entries

Date	Name	Registration Number	Outcome
13.10.2005	Peter Hockley	ODP15757	Removed
13.10.2005	Annabella Arscott	CH20360	Removed
13.10.2005	Julian Soons	CH19281	Removed

Interim Orders

In certain circumstances, panels of all of the Council's Practice Committees, may impose interim conditions of practice orders or an interim suspension order on health professionals who are the subject of a fitness to practise allegation. This power is used when the nature and severity of the allegation is such that, if the health professional remains free to practice without restraint, they may pose a risk to the public or to themselves. This power can be used prior to a decision in a case being reached or when a decision has been reached to cover the period of the appeal (when a final disposal order has been made the registrant has 28 days in which to appeal this decision).

The table below displays the professions where an interim order has been imposed at a specially constituted panel to consider the interim order application. It further indicates the cases where the interim order has been reviewed. We are obliged to review the interim order 6 months after it is first imposed and every 3 months thereafter.

Despite the increase in allegations received by the HPC in 2005/2006 there has been no increase in the numbers of interim orders that have been granted. In fact, in 2004/2005 16 interim orders were applied for prior to the final hearing and 15 were granted, exactly the same number of cases as 2005/2006.

Table 4.1: Number of Interim Orders (this table only includes interim orders that were applied for at panels constituted for that reason)

Professions	Applied for	Granted	Reviewed	Revoked	Adjourned
AS	0	0	0	0	0
CH	0	0	3	0	0
CS	0	0	0	0	0
DT	0	0	0	0	0
BS	4	4	4	0	0
ODP	5	5	2	0	0
OR	0	0	0	0	0
OT	0	0	0	0	0
PA	0	0	3	0	0
PH	4	3	0	0	1
PO	0	0	0	0	0

RA	3	3	0	1	1
SL	0	0	0	0	0
Total	**16**	**15**	**12**	**1**	**2**

There were varying reasons why interim orders were imposed in 2005/2006. However 4 out of the 5 cases concerning Operating Department Practitioners involved the misappropriation and misuse of controlled drugs. Operating Department Practitioners work in a theatre environment and a number of the individuals were found to have self-administered these drugs and needed hospital treatment as a result of this. In these cases the panel determined that it was both in the interest of the registrant concerned and for the public to be protected that such steps were required.

Interim Orders have also been imposed when the registrant has been subject to serious criminal charges – such as murder or gross negligent manslaughter. The approach generally adopted by the HPC when a registrant is subject to criminal charges is to take no action until the criminal case against the registrant is concluded. However, in some instances to protect the public, or in the interests of the person concerned, HPC will take immediate action is needed to prevent someone from practising unrestrained or at all.

We have also taken interim order action against registrants when the allegation concerned competency issues. Again this action is only taken when the nature and severity of the issue is such that immediate action to remove someone from unrestrained practice is required.

In 2005/2006 12 reviews of interim orders occurred. This happens when the case does not reach full hearing before the date required to review the interim order. This sometimes occurs because a criminal case has not yet been concluded against the registrant, or because it takes longer than expected to gather the evidence required for the case (this generally occurs when a number of witnesses are involved in the matter).

In 2005/2006 no interim conditions of practice orders were imposed. All the cases considered were judged to be severe enough to merit an interim suspension order.

Public Hearings

The HPC is obliged to hold hearings in the home country of the registrant concerned. Most of our hearings took place at the HPC's offices in London. However in 2005-2006 hearings also took place in Belfast, Birmingham, Bristol, Cardiff. Chester, Durham, Edinburgh, Ipswich Glasgow, Leeds, Llandudno, Newcastle, Nottingham, Manchester and York.

One of the reasons why we hold our hearings in regional centres around the United Kingdom is to ensure that our tribunals are as accessible as possible to those that may have course to attend one of our hearings – this in particular relates to the registrant concerned and any witnesses that are required to attend. We appreciate that giving evidence is a difficult experience so our processes are designed to make the experience smoother.

We normally hold our hearings in public, as this is required by the Health Professions Order. However, we can hold a hearing in private if the panel is satisfied that, in the interest of justice or for the protection of the private life of the health professional, the complainant, any person giving evidence or of any patient or client, the public should be excluded from all or part of the hearing. If a hearing is held in private, we are still obliged to announce the decision, and any order made in relation to the case, in public. In cases where the decision is well founded, we publish this information on our website.

We generally issue press releases after a hearing in all cases except for those concerning Health.

Table 5.1: Type of Public Hearing

Type of Hearing	Number of Cases** Considered 2004-2005	Number of Cases** Considered 2005-2006
Interim Order and Review	25	28
Conduct and Competence	57	76
Investigating*	1	5
Health	8	5
Review Hearings	11	26
Total	102	140

***** Panels of the Investigating Committee meet in public when they are considering whether an entry to the register has been fraudulently procured or incorrectly made
** Some cases have been considered more than once

We expect to see a further increase in the number of public hearings in 2005-2006.

What powers does have a panel have?

Any action taken by the panel is intended to protect the public and is not intended as a punishment. The panel will always consider the individual circumstances of a case and take into account what has been said by all those at the hearing before deciding what to do. In hearings of the Health Committee or where the allegation relates to lack of competence, the panel will not have the option to strike off at the first hearing. This is because we recognise that in cases where ill health has impaired fitness to practise, or where competence has fallen below expected standards, it is possible for the situation to be remedied over time. The registrant may seek treatment, or training and may be able to come back onto the Register if the panel is satisfied that this is safe.

Types of Order imposed

The options (also known as sanctions) available to final hearing panels are:

1. Take no further action.
2. Send the case for mediation
3. Impose a caution order. This means that the word 'caution' will appear against the registrants name on the register. Cautions orders can be between 1 and 5 years in length.
4. Place some sort of restriction or condition on the registrant's registration. This is known as a conditions of practice order. This might include requiring the registrant to work under supervision or to undertake further training.
5. Suspend registration. This may not be for longer than 1 year.
6. Order the removal of the registrant's name from the register. This is known as striking off order.

Time taken from Allegation to Hearings

Of the cases that reached final hearing in the year 2005-2006 it has taken an average of 52 weeks from receipt of allegation to the final hearing.

Days of Hearing

In 2005/2006, fitness to practise cases were considered on 151 days. In some instances more than one case took place on the same day. We have estimated that cases will take place on 180 days in 2006/2007.

Costs per Case (Legal Costs)

With the increase in the number of cases considered by the HPC, we have also seen an increase in the legal costs for the Fitness to Practise department. HPC is obliged to meet the following costs involved in a case:

- venue hire and associated costs (including catering);
- shorthand writer;
- legal assessor (fee and expenses);
- panel members (fee and expenses); and
- legal costs (taking witness statements, presenting the case).

Our solicitors were involved in presenting most of the cases considered at public hearing in 2005/2006. Some interim orders and reviews were presented by members of the fitness to practise team. Furthermore, we also instructed our solicitors on a further 100 cases in 2005/2006.

Of the cases that have reached final hearing in 2005/2006 and where a final disposal decision was reached, the highest amount of legal costs spent on an individual case in 2005/2006 was £69777.24. This case had also incurred costs of £22150.33 in 2004/2005 meaning that the total amount of money spent on the case was £91927.57. This case was particularly complex, and involved a number of particulars in the allegation and required a number of witnesses to prove the case. It was also contested by the registrant.

Of the 193 cases where legal costs were incurred, the average amount of money spent on a case in 2005/2006 was £4833.08.

We are taking a number of steps to ensure that the way we manage our cases is effective and efficient. This includes the implementation of standard directions and reviewing where it is necessary to instruct a solicitor.

Action taken at final hearings:

All HPC decisions are published on our website at www.hpc-uk.org. If you would like more information regarding one of the cases listed below please look at our website.

Table 5.2: Summary of Hearings 2005-2006

Date of Hearing	Name of Registrant	Registration Number	Allegation	Outcome
1st April 2005	Marco-Paulo Carvalho	RA41125	Misconduct	Struck off
6th April 2005	Nahashan Ngugi	OT38122	Misconduct	Caution
8th April 2005	Natasha Gorringe	CH14687	Misconduct	Suspension
11th April 2005	Judith Spooner	DT9251	Health	Referred to Conduct and Competence
13th-15th April 2005	David Ryell	PA7948	Misconduct/Lack of Competence	Caution
22nd April 2005	Matthew Smith	RA34977	Conviction	Suspension
6th May 2005	Mohammed Khokhar	CS1250	Competence	Suspension

16th May 2005	Alexander MacHenry	PH55045	Misconduct	Conditions of Practice
20th May 2005	Malvina Allan	BS31167	Misconduct	Struck Off
31st May 2005	Sam McBride	PH63764	Misconduct/Lack of Competence	Caution
13th June 2005	Mark O'Halloran	PA7435	Misconduct	Struck Off
16th June 2005	Simon Harrison	PH43175	Misconduct	Caution
17th June 2005	Stephen Davis	ML32212	Conviction	Struck Off
21st June 2005	P K U Ratnasiri	PH28157	Competence	Conditions of Practice
23rd June 2005	Gerard Wild	PA4099	Competence	No further Action
1st July 2005	Benjamin Lloyd Jones	OT35441	Health	Conditions of Practice
5th July 2005	Shirley Fogarty	OT20222	Misconduct	Suspension
15th July 2005	Michael Crockford	PA7167	Conviction	Struck Off
15th July 2005	David Coleby	PH55294	Conviction	Struck Off
2nd August 2005	Jennifer Moy	PH58366	Misconduct	Suspension
10th August 2005	Rabea Yousaf	ML41561	Misconduct/Lack of Competence	Suspension

15th August 2005	Karen Yvette Denny	OT32748	Caution	No further action
13th September 2005	Minette Magno	PH66295	Competence	Suspension
28th September 2005	Judith Spooner	DT9251	Misconduct	Suspension
7th October 2005	Rachel Winnard	PH62581	Misconduct	Referred to the Health Committee
10th October 2005	Gillian McFarlane	DT4547	Conviction	Caution
13th October 2005	Peter Hockley	ODP15757	Incorrect Entry	Removed
13th October 2005	Annabella Arscott	CH20360	Incorrect Entry	Removed
13th October 2005	Julian Soons	CH19281	Incorrect Entry	Removed
14th October 2005	Thomas Wildman	PA8846	Caution	Struck Off
17th October 2005	Jane Hewitt	PH42630	Misconduct	Conditions of Practice

18th October 2005	Asarath Aliyar	PH38326	Competence	Suspension
10th November 2005	Baldev Mehra	PH14066	Competence	Suspension
30th November 2005	David Miller	ODP12555	Misconduct	Suspension
8th December 2005	Criona O'Donnell	CS1698	Health	Suspension
26th January 2006	Josphat Mwilaria	RA41564	Misconduct/Lack of Competence	Suspension
30th January 2006	Jackie Hutchings	PA9998	Health	Referred to C& C
3rd February 2006	Graham Durant	PA13855	Misconduct	Caution
8th February 2006	Mark Holman	CH15488	Health	Suspension
13th February 2006	Rosemary Fisher	SL890	Competence	Suspension
13th February 2006	James Sykes	ODP13894	Competence	No further Action

16th February 2006	Jitendra Singh	OT27596	Competence	Suspension
24th February 2006	Hermione Evans	PH15027	Misconduct	Caution
6th March 2006	Sean Clarke	BS38372	Misconduct/Lack of Competence	Suspension
7th March 2006	Jane Batterton	BS34178	Misconduct	Suspension
13th and 14th March 2006	Anissa Patel	OT40430	Misconduct/Lack of Competence	Struck Off
13th March 2006	Keith Hotchkiss	PA565	Misconduct	Struck Off
16th March 2006	Terence Carter	CH19313	Misconduct	Caution
23rd March 2006	Zanele Nxumalo	DT12152	Competence	Conditions of Practice
28th March 2006	Paul Duxbury	ODP9204	Misconduct	Struck Off

Media Coverage 2005/2006

2005/2006 saw an increase in media reports about cases that have been considered by the HPC. Such reports display increased awareness about the role of the HPC and indicates that we should expect an increase in allegations in 2006/2007. Media coverage of our case is important because it shows that our processes are transparent and increases public awareness about the role of the HPC.

We had media coverage about fitness to practise cases in the following:

- The London Evening Standard;
- The Sun;
- The Sunday Mail (Scotland);
- BBC News Online;
- Teletext News; and
- The Lincolnshire Echo.

We also had coverage in other regional and local newspapers and in various on-line news services.

Health Committee

Panels of our Health Committee consider allegations that a registrant's fitness to practise is impaired by their physical or mental health. We are allowed to take action when the health of the registrant may be impairing their ability to act safely and effectively. If the allegation is proven then a caution, conditions of practice or a suspension order can be imposed. We are not allowed to strike someone off the register in health cases. This is because our sanctions are not intended to punish the registrant but to protect the public. A suspension order for instance, may give the registrant an opportunity to address their health issues before returning to practice. Conditions of practice such as undergoing alcohol rehabilitation may be imposed.

The Health Committee considered five cases where the allegation was that the registrant's fitness to practise was impaired by reason of their physical or mental health. The panels determined that in two cases the matters should be referred to the Conduct and Competence Committee as it was felt that the allegation related to misconduct rather than physical or mental health. In the 3 other cases it was proven that the registrant's fitness to practise was impaired by reason of their physical or mental health. The issues that were considered related to:

- mental health;
- posthrombotic syndrome

In two of the cases the individuals were suspended from the register. It was considered that that the only way the public would be adequately protected would be to suspend the individuals concerned. In one instance it was felt that the individual was mechanically unfit and had no will to practise.

In the third case, a conditions of practice order was imposed which required the registrant concerned to maintain medical supervision with his treating psychiatrist.

The aim of the sanction was to allow the registrant to continue to practise but under the condition that he continued with medical treatment.

At the end of March 2006, the Health Committee were responsible for 7 cases. These cases will be listed for hearing in 2006/2007. The Committee also has within its remit 8 review cases. This means that the conditions of

practice or suspension order previously imposed will require review in 2006/2007.

Conduct and Competence Committee

We have once again seen an increase in the number of cases considered by panels of the Conduct and Competence Committee. The table below shows the number of cases where a final disposal decision has been reached in a case. We have also seen an increase in the number of days required for a hearing. In one particular case, in excess of 30 days were required for the hearing.

Furthermore, as the complexity of the cases considered by us increases growing numbers of registrants are representing themselves or have representation. This is a trend that is anticipated to continue in the future.

Increased representation and complexity of cases also contributes to the increase in the number of cases where either an adjournment on the day of the hearing has been granted or it has not been possible to finish the case in the time allotted for the hearing. It has also been necessary to truncate certain cases over a period of time so as to ensure all those involved in the case can attend. Adjournments have been granted in cases for a number of reasons – including illness of representation, inability to attend on the day of the hearing, health reasons and the need to further particularise the allegation which the registrant is facing.

There have been 27 occasions where the circumstances outlined above have been identified.

Table 5.3: Conduct and Competence Hearings

Year	Disposal Decision Reached
2003-2004	**15**
2004-2005	**45**
2005-2006	**51**

Convictions/Cautions

Panels considered eight cases where the registrant had been convicted or cautioned for a criminal offence. In all 8 cases panels determined that the registrant's Fitness to Practise was impaired.

The convictions/cautions that were considered were as follows:

- offences contrary to the Data Protection Act 1998;
- attempted murder;
- common assault;
- making indecent photographs or pseudo photographs of a child;
- theft by employee;
- indecent assault on a female;
- resisting or obstructing a constable; and
- theft and deception.

In five instances it was felt that the convictions were of such a serious nature that in order to adequately protect the public, the registrant needed to be struck off the register. In one of the cases concerned, the conviction related to offences of a sexual nature. In two further instances, two paramedics were removed from the register as a result of their convictions for theft and deception. The circumstances in both cases included theft and the subsequent attempt to sell the stolen items on Ebay. In one instance the case had a dishonesty element and in the last case violence was involved. These cases are an indication not only of the type of allegation that might result in a registrant being struck off, but also the type of issue which might prevent an applicant from being granted registration.

On one other occasion, a registrant was suspended from the register as a result of their conviction. The case had a sexual element to it and will require review in May 2006.

One other occasion involved a registrant who had been had been convicted of offences contrary to the Data Protection Act 1998. The panel on this occasion imposed a caution because they felt that the registrant had demonstrated insight into her failings and that an incident of a similar type was unlikely to occur again. They also recognised the support from the employer that the registrant was receiving.

In the final instance where a registrant's fitness to practise was found to be impaired by reason of their caution, the panel did not deem it appropriate to take any further action in relation to the matter. The panel took into account all the circumstances of the particular cases and genuine remorse that the registrant displayed and consequently felt that no further action was necessary.

Misconduct

In 2005-2006, panels of the Conduct and Competence Committee considered 22 which involved allegations to the effect that a registrant's Fitness to Practise was impaired by reason of their misconduct. The issues that were considered included:

- submitting false time sheets;
- shredding patient records;
- poor communication;
- poor record keeping;
- inappropriate sexual relationships;
- making inappropriate comments;
- sharing inappropriate information;
- breaching patient confidentiality;
- attendance at work under the influence of alcohol;
- consumption of alcohol at work;
- failure to maintain proper professional boundaries;
- misuse of Drugs;
- falsifying documentation;
- inappropriate relationship with a patient; and
- failure to disclose convictions.

A range of sanctions have been used by the panels to ensure that the public are adequately protected.

Competence

In 2005-2006, 15 of the cases considered by the panels had an element of lack of competence in the allegation. The types of competency issues that were considered included:

- failure to meet the Standards of Proficiency (the Standards of Proficiency are the entry level standards that we expect all registrants to be able to meet);
- inappropriate treatment and assessment;
- record keeping;
- poor clinical assessment and inadequate treatment;
- poor communication skills and interpersonal skills;
- knowledge and skills not up to date;
- poor patient handling and manual handling skills;
- ability to manage caseload; and
- failure to liaise with other professionals

As in 2004/2005, no major trends have developed in relation to the competence of registrants. This view is further supported by the review of competence cases that took place in November 2005.

The panels have used the range of sanctions at their disposal when it has been found that the registrant's fitness to practise was impaired by reason of their lack of competence.

Council is currently reviewing the Standards of Proficiency and has set up a Professional Liaison Group to undertake this work.

Standards of Conduct, Performance and Ethics

It is a key requirement of the Health Professions Order 2001 that the HPC must 'establish and keep under review the standards of performance and ethics expected of registrants and prospective registrants and give then such guidance as [we] see fit'. In 2006/2007 the Conduct and Competence Committee will be undertaking a review of these Standards. The full standards can be downloaded from our website.

In 2005/2006 particular reference was made to the following standards in the decisions reached by panels of the Conduct and Competence Committee:

2. You must respect the confidentiality of your patients clients and users.
3. You must keep high standards of personal conduct.
10. You must keep accurate patient, client and user records.
13. You must carry our your duties in a professional and ethical way.
14. You must behave with integrity and honesty.
16. You must make sure your behaviour does not damage your profession's reputation.

A breach of the Standards of Conduct, Performance and Ethics does not necessarily mean that a registrant's fitness to practise is impaired but a breach of the standards is taken into consideration in proceedings of the Conduct and Competence Committee.

Sanctions Imposed

This table indicates the sanctions that have been imposed by profession.

Table 5.4: Sanctions imposed by profession

Prof	S/O	S	COP	CA	NFA	NF	NR
AS	**0**	0	0	0	0	0	0
BS	**2**	3	0	0	0	0	0
CH	**0**	2	0	1	0	0	0
CS	**0**	2	0	0	0	0	0
DT	**0**	1	1	1	0	0	0
ODP	**1**	1	1	1	1	0	6
OR	**0**	0	0	0	0	0	0
OT	**1**	2	1	1	1	0	0
PA	**4**	0	0	2	1	0	0
PH	**1**	6	3	3	0	1	0
PO	**0**	0	0	0	0	0	0
RA	**0**	2	0	0	0	0	0
SL	**0**	1	0	0	0	0	0
Total	**9**	**20**	**6**	**9**	**3**	**1**	**6**

Glossary

S/O – Struck Off
S- Suspension
COP – Conditions of Practice
CA- Caution
NFA – No Further Action
NF- Not Found
NR – Not Registered

Rate of Representation

When appearing before panels of the Council's Practice Committee, registrants are given an opportunity to attend and present their case. There are also entitled to have representation. Some registrants chose not to attend, have any representation or to provide any response to the allegation that has been put before them. Present at the hearings are Legal Assessors, whose role in instances such as this, includes ensuring that the panel determine whether adequate notice has been served on the registrant and further ensuring that the hearing is conducted in a fair and impartial manner.

Of the hearings where a final disposal decision was taken in 2005/2006, 25 registrants were represented and 34 registrants were not. The table below displays the action that was taken in relation to these individuals

Table 5.5: Sanction and Representation

Outcome	Representation	No Representation
Struck Off	2	7
Suspension	5	15
Conditions of Practice	5	1
Removed	0	3
Not Allowed	1	5
Caution	8	1
No Further Action/Not Found	3	1

It is difficult to analyse such information as the panels have to consider each case on its merits.

Well Founded?

In 2005/2006 it was determined that one case against a registrant was not well founded. When we present a case we are obliged to prove that the allegation is well founded. This did not occur on 3 occasions in 2004/2005. Our legislation prevents us from publicising cases where it has been determined that the case is not well founded. We are however obliged to provide the Council of Healthcare Regulatory Excellence (CHRE) with information about such cases. More information about the role of CHRE can be found later in this report.

The panel have to determine on the balance of probabilities whether the allegation that a registrant's fitness to practise is impaired is well founded. Before they do this they are obliged to consider whether the facts as alleged occurred, whether those facts amount to the basis of the allegation (eg lack of competence or misconduct) and whether that misconduct amounts to impairment of fitness to practise. If all three elements are not found then the panel is obliged to find that the case has not been proven.

Review Hearings

If a conditions of practice or suspension order has been imposed, it will always be reviewed by another panel shortly before it is due to expire. It can also be reviewed if the registrant concerned makes an application for review. A registrant may do this in certain circumstances including where they may be experiencing difficulties with meeting any conditions imposed by the original panel or when new information relating to the order that was imposed has come to light. The HPC can also review a conditions of practice order when it appears that the registrant is in breach of any condition imposed by the panel.

When a conditions of practice order is reviewed, the review panel will look for evidence that the conditions imposed by the original panel have been met. This may include a report from a supervisor or evidence that further training has been completed. It may also be confirmation of completion of treatment for a drug or alcohol addiction.

If a suspension order was imposed, a review panel might look for evidence that the problems that led to suspension have been dealt with. This may be for instance, evidence of further training to address the concerns that were identified at the original panel.

A review panel will always want to make sure that the public continue to be adequately protected. If they are not satisfied that someone is now fit to practise, they might extend a conditions of practice order, further extend the period the registrant was suspended for, or in certain circumstances, remove the registrant from the register (known as a striking off order)

In 2005/2006, panels of the Conduct and Competence Committee and Health Committee reviewed 26 cases where a conditions of practice or suspension order had been imposed. 11 cases required review in 2004/2005. As HPC considers more cases, the numbers of cases that will require a full review hearing will also increase – as indicated by the increase from 2004/2005. Reviewing an order generally costs in the region of £3000-£5000. This figure includes the legal costs, venue and other associated costs and the cost of convening the panel.

Review panels made decisions ranging from taking no further action to changing a suspension order to a striking off order. In other cases conditions of practice orders were either imposed or clarified to ensure that the public was adequately protected. In a number of cases considered by review panels, the period of suspension imposed by the original panel was further

extended. This generally occurs when the highest available sanction to the original panel was suspension. In cases where the allegation concerns competence or health the highest available sanction for the panel is suspension and a person has to be subject to a suspension order for two years before they can be removed from the register.

In cases where a further period of suspension is imposed it is generally because the panel feel that this is the only way that the public would be protected and the registrant has provided no information to indicate that they are able to practice subject to conditions or not.

In 2005/2006, one individual was struck off at a review hearing. This was because the individual concerned failed to meet the conditions that were imposed upon him and showed no insight into the behaviour that resulted in action being taken against him in the first place.

The table provides details of cases that were reviewed:

Table: 6.1 List of Review Hearings

Date of Review	Outcome at Original Hearing	Name of Registrant	Registration Number	Outcome of Review Hearing
16.05.2005	Suspension	Sarah Turgoose	BS34272	Further Suspended
26.05.2005	Suspension	Julie Pring	PH5659	Suspension revoked, conditions imposed
02.06.2005	Suspension	John Stuart	PH52283	Suspension revoked
03.06.2005	Suspension	Gaby-Lee Franks	RA41491	Suspension revoked
06.07.2005	Suspension	Gaynor McAlister	OT26458	Further suspended
21.07.2005	Suspension	Frank Attwater	PH66063	Further Suspended
01.08.2005	Conditions of Practice	David Fozard	CH13819	Struck Off
16.08.2005	Suspension	Patrick Guest	PH63754	Suspension revoked, conditions imposed
16.08.2005	Conditions of Practice	Cristina Reyburn	SL7520	Conditions Extended
22.08.2005	Suspension	Christopher Caulkin	CH6900	Further Suspended
22.08.2005	Conditions of Practice	Joe Osmond	SL5914	Conditions Extended
16.09.2005	Conditions of Practice	Richard Adams	PH23565	Suspended
26.09.2005	Suspension	Esther Randall	PH53062	Further Suspended
11.10.2005	Suspension	Mr Ian Blakey	PA1964	Further Suspended
11.10.2005	Suspension	Mr Kayode Balogun	RA38656	Suspension revoked, caution imposed
24.10.2005	Suspension	Naveed Khan	PH41061	Further Suspended
26.10.2005	Suspension	Tariq Azam	BS43288	Suspension revoked
17.11.2005	Suspension	Lindsay Boyes	SL08040	Suspension revoked
05.12.2005	Suspension	Roland R Parton	CH7012	Suspension extended
12.12.2005	Suspension	Anthony Martin	PH59004	Suspension revoked
13.12.2005	Conditions of Practice	Fraymond Mayunga	PH45841	Conditions Extended
14.02.2006	Suspension	Linda Bailey	PA4769	Suspension extended
21.02.2006	Conditions of Practice	Merlin Jose	PH63972	Conditions met
23.02.2006	Suspension	Jennifer Moy	PH58366	Suspension revoked

Newly Regulated Professions – Operating Department Practitioners and the Transfer of Cases

The Operating Department Practitioners (ODPs) became the 13th profession regulated by the HPC on 18th October 2004. As part of this process, HPC became responsible for the allegations that were previously being considered by the ODP professional body (the Association of Operating Department Practitioners). 10 cases were passed to the HPC. Until the cases against these individuals were concluded, the individuals concerned were not eligible for registration. In 2005-2006, panels of the Conduct and Competence and Health Committee considered eight cases that had been passed to the HPC by the AODP. In six of the eight cases considered by panels of the Conduct and Competence Committee, it was determined that the individuals concerned were not eligible for registration. The allegations that were considered were as follows:

- Making indecent photographs and pseudo photographs of children
- Accessing pornographic material at work
- The consumption of alcohol whilst on call; and
- Convictions concerning the misuse of controlled substances.

In all six cases the panels determined that the individuals concerned were not fit to be on the register maintained by the HPC.

In two other cases, the panel felt the individuals could both be registered subject to a caution order in one instance and a conditions of practice order in the other. The conditions of practice order required that the individual continue attending a drug rehabilitation unit.

Other issues

Changes to the Rules (2005/2006)

In July 2005 a number of changes were made to the rules governing our Fitness to Practise procedures. Those changes included provisions for:

- presenting officers;
- joining allegations; and
- vulnerable witnesses.

There are now provisions within the rules governing our fitness to practise procedures making provisions for vulnerable witnesses. These provisions allow for witnesses to be treated as vulnerable if the quality of their evidence is likely to be adversely affected as a result of appearing before the panel.. This will also help to limit the distress the witness may feel when giving evidence. The groups that fall within the provisions of the vulnerable witness provisions are as follows:

(a) any witness under the age of 17 at the time of the hearing;

(b) any witness with a mental disorder within the meaning of the Mental Health Act 1983;

(c) any witness who is significantly impaired in relation to intelligence and social functioning;

(d) any witness with physical disabilities who requires assistance to give evidence;

(e) any witness, where the allegation against the practitioner is of a sexual nature and the witness was the alleged victim; and

(f) any witness who complains of intimidation.

A number of measures can be adopted in relation to vulnerable witnesses which include (and are not limited to), the use of video links, the use of interpreters and the hearing of the evidence in private. We hope that such measures ensure that that the evidence given is not unduly affected by the particular circumstances of the case.

There are now also provisions within the rules which allow 'presenting officers' to present cases.. Previously, only solicitors could present cases before the various panels of our Practice Committees. The changes mean that Case Managers in the Fitness to Practise team and paralegals can present cases to a panel. Cases are assessed individually to determine

whether it is suitable for a non-solicitor to present the case, however the use of presenting officers means that we can manage our resources more effectively.

The rules also now allow for joining allegations. This means that if we receive a further allegation against a registrant, both matters can be considered at the same time.

Policy Developments

In 2005/2006 a number of policy developments and initiatives were considered by the various Practice Committees. We are continually reviewing our processes and policies to ensure that the action we take effectively protects the public, manages our resources to their best effect and ensures that our tribunals are fair independent and impartial.

This year, the Committees and Council have reviewed the Sanctions Practice Note, approved a policy for seeking patient records, discussed how to make the HPC complaints process more accessible and agreed standard directions for panels.

The Sanctions Practice Note provides information to those involved in the decision making process, HPC lawyers and registrants and their representatives about what type of allegation should merit what type of sanction. It should be noted however, that the panels consider each case individually on its particular merits.

The Standard Directions that have been agreed include directions about exchange of information and when witnesses should be called. It is hoped that such developments may assist in the reduction of cases that are adjourned and in the time required for hearings.

Protection of Title

On 8th July 2005 the Grandparenting window for 12 of the 13 professions we regulate closed.[2] Grandparenting was a two year window in which non registered professionals could apply for registration even if they did not have an approved qualification. The titles which we protect can be found in the appendix to this report.

It is now a criminal offence to represent yourself either expressly or by implication as being registered by us or to use a title to which you are not

[2] The Grandparenting window for Operating Department Practitioners closes on 17th October 2006

entitled. Each profession on our Register has one or more protected titles. These titles can only be used by people on our register. This effectively means that being removed from the register means removal from the profession. The steps that we take include writing a 'cease and desist' letter to the registrant.

Since July 2005 we have received a large number of complaints about individuals using titles to which they are not entitled. We have looked into complaints regarding all twelve of the original professions. The highest number of complaints were received about individuals using the title physiotherapist or chiropodist. We have informed the individuals concerned that it is a criminal offence to use a title to which you are not entitled by issuing a cease and desist notice and in most cases have received confirmation that the individuals concerned have changed their advertising and ceased using the title.

The table below displays the source of the complaints we have received about the use of title. We receive the majority of our complaints from registrants who are concerned about individuals using the titles erroneously.

At the end of March there were 51 open 'protection of title' cases.

Table 7.1: Protection of Title Complaints

Type of Complainant	Number of Cases
Professional	225
Public	53
Police	31
HPC	10
Anonymous	50
Total	369

We have received the most complaints about individuals using the title physiotherapist and chiropodist. Of the 369 complaints received since June 2005 227 were about individuals using the title chiropodist and 85 about individuals inappropriately using the title physiotherapist.

High Court Cases and the role of the Council for Healthcare Regulatory Excellence (CHRE)

CHRE is a body that promotes best practice and consistency in the regulation of healthcare professionals among the nine UK healthcare regulatory bodies, including the HPC.

CHRE may also refer a regulator's final decision on a fitness to practise case to the High Court (or its equivalent in Scotland) if they feel that a decision

made by the regulatory body is unduly lenient and that such a referral is in the public interest.

In 2005/2006 CHRE referred one HPC decision to the High Court. At the time of writing we are still awaiting the outcome of this matter.

In 2005/2006 three registrants appealed against decisions made by HPC Fitness to Practise Panels. We are awaiting two of the cases to be listed for hearing in 2006/2007.

An appeal by a Biomedical Scientist against a decision of the Conduct and Competence Panel in 2004 was heard by the High Court in May 2005. The person concerned was suspended by the panel and this was the decision that was appealed against. The grounds of the appeal were two fold:

- The order of the tribunal was unjust on the grounds that the individual concerned was not represented on the day; and
- The decision to suspend the registrant was extremely severe.

Both grounds of appeal were rejected. The first ground was rejected on the basis that the panel was entitled to reject the application for adjournment. The second ground of appeal failed because the "penalty" for the "offence" fell within the range of responses that the panel could reasonably make. The judge in the case went on to say that an appellate court is less likely to interfere with a decision when members of the panel include fellow professionals of the person whose behaviour has given rise to a complaint.

An appeal by a Paramedic against a decision of the Conduct and Competence Panel was heard by the High Court in November 2005. There were seven grounds to the appeal which were as follows:

- failure to give notice of the issues/lack of specificity;
- failure to produce relevant evidence;
- lack of cross-examination;
- witnesses not called;
- hearing within a reasonable time;
- reasons for decision; and
- perversity.

The first five grounds advanced by the registrant suggested that the procedure adopted in the case was flawed. The judge found there was no substance in this. The appeal was allowed because the panel failed to indicate the reasons behind its decision. The decision of the panel was therefore quashed and the case remitted back to the Conduct and Competence Committee for a fresh hearing.

We are undertaking work to ensure that panels of our Committees give adequate reasons for their decisions and are continually looking at ways to improve our processes.

Conclusion from the Director of Fitness to Practise

This year has seen a big increase in the number of cases dealt with by us. We have seen the numbers of allegations increase and the numbers of complaints received by members of the public increase. This year has also seen a rise in the number of cases considered by panels and a change in the types of cases considered. More days have been required for hearings – we had a number of cases that took more than five days in 2005/2006. Previously the normal length of time required for a case was one day. Two cases have taken in excess of 15 days to complete.

We have also seen a rise in the cases that have required a review(over 20 this year) and cases where adjournments/postponements have been applied for and granted.

As a result of all this the costs involved in running our fitness to practise processes are rising. We are continually reviewing the costs involved in running our processes and our Committees review our processes to ensure that they are cost effective and efficient.

We are also noticing the differing types of allegations that are received about the range of professions and we will review this in 2006/2007.

In 2006/2007 we plan to take further steps to make our processes more accessible and review our processes to ensure all that we do adequately protects the public.

Thank you for reading this document, and I hope you find it of interest.

Kelly Johnson
Director of Fitness to Practise

How to make a complaint

If you want to complain about a registrant, you need to write to our Director of Fitness to Practise at the following address:

Health Professions Council
Park House
184 Kennington Park Road
LONDON
SE11 4BU

If you need any more help, you can also contact a member of the Fitness to Practise Department.

Telephone: 020 7840 9814

Fax: 020 8582 4874.

Unfortunately, we can currently only able to accept complaints that are made in writing. However, you ask someone to write it on your behalf.

When you write to us, please:

- include your full name and address;
- tell us what happened, including as much information as you can (such as names, dates and places); and
- include the name, profession and place of work of the registrant, if you can. We understand that you might not have this information, but it will speed things up if you do.

We are looking at ways to make our complaints process more accessible. We have now developed a complaints form which you may find useful when formulating your complaints. We will also be implementing a process of taking complaints over the telephone in 2006/2007.

If you need any further information in relation to this work, please contact us on the numbers above. You can also find further information on our website at www.hpc-uk.org

APPENDIX

PROTECTED TITLES

The titles below are protected by law. Anyone using one of these titles must be registered with they HPC, or they may be subject to prosecution and a fine of up to £5000.

The table below shows the parts, subsections and protected professional titles.

PART	SUBSECTION	TITLE
Arts Therapist	Art Therapist	Art Psychotherapist
		Art Therapist
	Dramatherapist	Dramatherapist
	Music Therapist	Music Therapist
Biomedical Scientist		Biomedical Scientist
		Medical Laboratory Technician
Chiropodist and Podiatrist		Chiropodist
		Podiatrist
Clinical Scientist		Clinical Scientist
Dietitian		Dietitian
		Dietician
Occupational Therapist		Occupational Therapist
Operating Department Practitioner		Operating Department Practitioner
Orthoptist		Orthoptist
Prosthetist and Orthotist	Prosthetist	Prosthetist
	Orthotist	Orthotist
Paramedic		Paramedic
Physiotherapist		Physiotherapist
		Physical Therapist
Radiographer		Radiographer
	Diagnostic Radiographer	Diagnostic Radiographer
	Therapeutic Radiographer	Therapeutic Radiographer
Speech and Language Therapist		Speech and Language Therapist
		Speech Therapist

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