

Fitness to Practise Forum: 12th September 2007

Paper title: Health and Character Declarations

Executive summary and recommendations

Introduction

In June 2007, the Education and Training Committee approved the workplan to review the health and character process. That workplan is now provided to the forum to note.

Decision

This paper is for note only. No decision is required.

Background information

Please see paper previously provided to the Education and Training Committee June 2007.

Resource implications

See Education and Training Committee paper.

Financial implications

See Education and Training Committee paper.

Appendices

Health and Character Review and Workplan – paper approved by the Education and Training Committee June 2007.

Date of paper

28th August 2007

**Health Professions Council
Education and Training Committee 12th June 2007**

Health and character process review

Executive Summary and Recommendations

Introduction

At its meeting in June 2005, the Education and Training Committee approved the policy that HPC should adopt when in receipt of:

- Self referrals of health or character issues by registrants
- Health and character declarations on renewal of registration
- Health and character declarations on application for admission or readmission to the register

The policy then agreed is attached as an appendix. That policy has now been in place for two years.

In common with the Council's approach to other processes and standards, and in line with the Council strategy for continual improvement, it is suggested that the Education and Training Committee should now undertake a review of these processes and policies.

The review would be run jointly by the Fitness to Practise and Policy & Standards departments, and is intended to look at how the process has run thus far, to look at the cases heard and determine any information or trends that can be drawn out, and leading from this to establish whether the process needs to be refined or improved, or whether further information or guidance can be published.

In particular, the Education and Training Committee may wish to use the results of this review in order to produce guidance for education providers in the area of students with criminal convictions, which is a topic on which the HPC receives a relatively small but nonetheless consistent number of queries.

The attached draft workplan details how the timetable for how this work will be undertaken, and how information will be considered by the various committees whose remit touches on this process, to ensure that the following can be analysed:

- Cases considered by Health and Character panels (applications for registration with information on either the health and / or character reference which may raise a question about the individual's fitness to practise, or applications for renewal where the applicant discloses this information);
- Cases that have been considered by a Health and Character panel, and subsequently referred into the fitness to practise process; and
- Cases where the outcome resulted in an appeal by the registrant to the Council.

Decision

The Committee is asked to:

- discuss and agree the attached workplan for the review.

Background information

The White Paper also deals with issues that are relevant to this project, particularly its recommendation that the Council for Healthcare Regulatory Excellence (CHRE) should undertake a piece of work to establish a common definition of good character.

The timing of this review is therefore particularly timely, and we would hope that the results of HPC's internal review can be brought to CHRE's project, and contribute to any work they take forward which is then applicable to all regulators.

Following the recommendations of the Bichard Enquiry, there will also be a need for the review of HPC's processes to take account of the requirements of the Safeguarding Vulnerable Groups bill and the setting up of the Independent Barring Board (IBB), and the equivalent arrangements in Scotland.

Resource implications

This project forms part of the workplan for both the Fitness to Practise and the Policy & Standards teams for this financial year.

Financial implications

The financial implications of this project form part of the assumptions of the agreed budget for this financial year.

Appendices

Health and Character Policy

Date of paper

30th May 2007

Health and Character review

12th June 2007

Education and Training Committee consider paper on proposals for review of the health and character process

12th September

Paper considered by ETC to note to FTP Forum

4th December 2007

Meeting of the Education and Training Committee. Analysis of health and character process with proposals. This will include a proposal to draft guidance for applicants and education providers.

The Committee will also be asked to nominate a chair and two representatives to attend a meeting to be set up for April to discuss draft guidance.

27th March 2008

Council meeting. Council is asked to ratify the decisions made by the Education and Training Committee at their meeting in December 2007.

Early April 2008

Discussion meeting held, with participation from professional bodies, education providers and other relevant stakeholders.

10th June 2008

Education and Training Committee consider a report from the discussion meeting and an updated draft of the guidance.

3rd July 2008

Council asked to approve draft guidance for consultation.

August to October 2008

Consultation

**Consideration by Education and Training Committee and final approval by
Council – 2008/09**

HPC - Health and Character Declarations

Introduction

This paper sets out the policy and procedure that HPC should adopt when it receives:

- self referrals of health or character issues by registrants
- health and character declarations on renewal of registration
- Health and character declarations on application for admission or re-admission to the register

The Council's Standards of Conduct, Performance and Ethics sets out HPC's expectations of registrants and it is expected that anyone who wishes to be admitted to the HPC register will have kept to those standards. They are the basis on which HPC will assess complaints against a health professional and they are also the standards that will be used to help decide whether to allow a prospective registrant onto the register.

Furthermore, applications for registration with HPC must satisfy the Education and Training Committee as to their good health and character. Rule 5 of The Health Professions Council (Registration and Fees) Rules Order of Council 2003 provides:

"5. - (1) For the purpose of satisfying itself as to the good character of the applicant, the Committee shall have regard to-

- (a) the character reference provided under rule 4(2) or (3);
- (b) any conviction or caution which the applicant has received in the United Kingdom for a criminal offence or a conviction received elsewhere for an offence, which if committed in England and Wales, would constitute a criminal offence;

- (c) any determination by a body responsible for regulating or licensing a health or social care profession to the effect that the applicant's fitness to practise is impaired; and
- (d) any other matters which, in the opinion of the Committee, appear to be relevant to the issue,

and for this purpose the Committee may seek information additional to that provided with the application for registration from any person or source as it considers appropriate.

- (2) For the purpose of being satisfied as to the physical or mental health of the applicant, the Committee shall have regard to -
 - (a) the health reference or other evidence provided under rule 4(2)(b), (4) or (5); and
 - (b) such other matters as appears to it to be relevant,

and for this purpose the Committee may seek information additional to that provided with the application for registration from the applicant and from any other person or source as it considers appropriate and may require the applicant to be examined or further examined by a doctor nominated by the Committee.”

At its meeting on 15th February 2005, the Education and Training Committee resolved that “self-referrals” are to be dealt with in the first instance as character (and thus registration) issues rather than fitness to practise issues and should be treated in a similar way to convictions and cautions that are disclosed in the course of applying for or renewing registration . In such instances a Registration Panel is asked to decide whether the conviction or caution (or any other disclosure made) is relevant to the person's registration.

A Registrant who makes a declaration in line with paragraph 4 of the Standards of Conduct, Performance and Ethics will be advised that this information - and any other observations the registrant wishes to make - will be presented to a Registration Panel. The role of the Panel is to determine whether the issue is of such a nature that its consideration via the

fitness to practise process is required. In cases where registrants self-refer, HPC will make it clear that, in the first instance, the matter will be assessed by a Registration Panel for guidance. The registrant will be also warned that if, on the basis of that guidance the Council considers that the registrant's fitness to practise is brought into question, the matter may be referred to the Investigating Committee at which time the registrant will have a further opportunity to comment. At this point the matter becomes an Article 22(6) allegation and the procedures under Part V of the Health Professions Order 2001 apply.

A Registration Panel would comprise of a Chair, a registrant from the appropriate part of the Register, a lay partner and, if necessary, a doctor. Registration Panels will determine, on whether there is a fitness to practise issue that needs to be considered.

Investigating Panels (whose role is to consider "case to answer" decisions in relation to fitness to practise allegations) meet three times a month it is intended that Registration Panels will be drawn from and meet after the Investigating Panels, thus ensuring all necessary professionals are represented and that cases are dealt with expeditiously.

Health and character declarations that are made in the course of readmission, registration or renewal of registration would be dealt with in a similar way. If an applicant declares a health or character issue, further inquiries would be made (in line with Rule 5 of the Registration and Fees rules) and the applicant would be advised that their declaration, and any further representations that they may wish to make, will be considered by a Registration Panel. The applicant would be given 14 days in which to make any representations. The role of the Registration Panel in such cases is to determine whether the declaration prevents the individual from being renewed, readmitted or registered. If that is found to be the case, the applicant would have the right to make a registration appeal.

The initial procedures in all cases would be dealt with on the documents alone and the Fitness to Practise team will take responsibility for this process.

By establishing a clear process, the HPC will be able to identify the types of issues that affect registration, admission or renewal and develop appropriate policies to address them.

ISSUES FOR CONSIDERATION

When renewing registration, a registrant is obliged to declare whether there have been any changes relating to their health or good character of which HPC has not been advised of and which may affect the practice of their profession. The information HPC should be advised includes criminal convictions or any changes to a registrant's health which may impair that registrant's ability to practise safely.

Registration Panels will determine whether a person is;

- of appropriate good character to be admitted to the Register; or
- whether the health issues applicant has raised are compatible with them being on the Register.

When considering character declarations, Panels should take into consideration;

- the nature and seriousness of the offence or misconduct
- the applicant's character and conduct since the offence

HEALTH

When considering health declarations, Panels should take into account whether the applicant has;

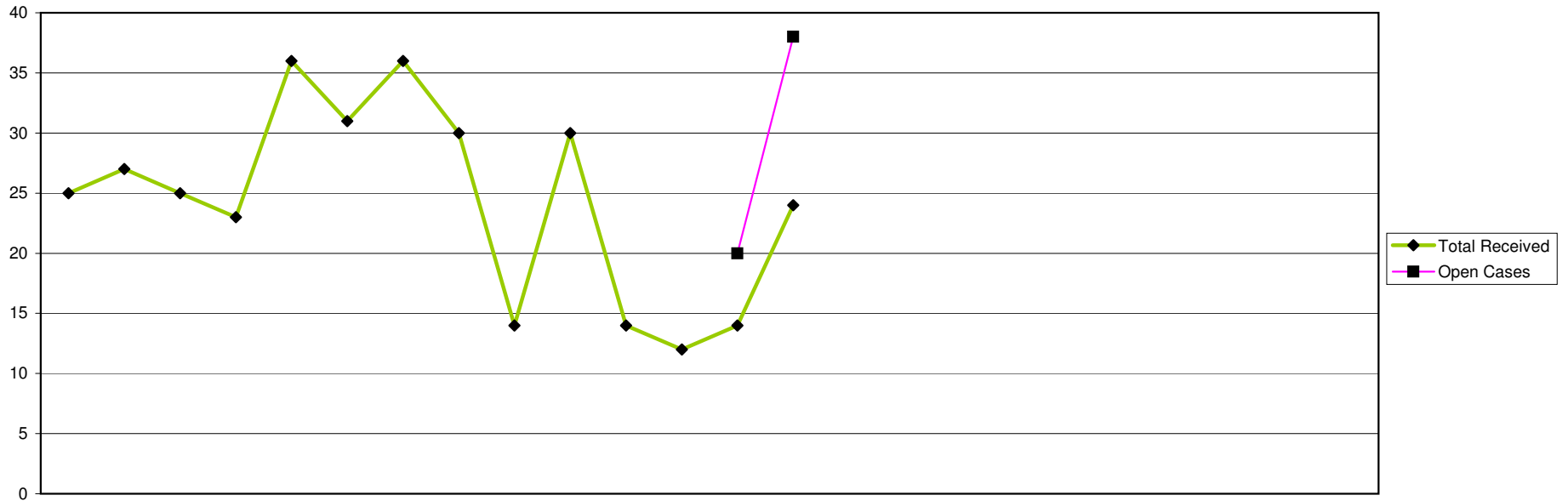
- sought medical or other support as appropriate
- made reasonable adjustments to their working conditions or agreed then with their employer
- restricted their scope of practice to those areas where they are confident that they meet the Standards of Proficiency

Health Professions Council

Health and Character Declarations

	2005									2006		
	April	May	June	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Renewal	–	0	0	5	3	0	10	2	3	8	5	
Readmission	–	0	3	1	2	6	8	8	1	4	0	
Admission	–	0	12	10	32	15	16	34	9	20	17	
Total	–	0	15	16	37	21	34	44	13	32	22	
Not on Register	–	1	0	0	1	3	1	0	0	0	0	
Self Referral	–	1	6	3	3	6	6	9	7	5	8	
Total	–	2	6	3	4	9	7	9	7	5	8	
Overall Total	–	2	21	19	41	30	41	62	20	42	38	

2005-2006
YTD
36
33
165
234
6
54
60
354



		2006			2007												2008			2005/6	2006/7	2007/8						
		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	FYE	FYE	YTD
Received	Renewal	5	2	6	2	0	0	4	6	2	0	0	0	0	0											36	27	0
	Readmission	4	4	4	6	2	2	3	1	4	9	1	0	6	2											33	40	8
	Admission	6	9	5	12	29	23	23	12	7	10	6	8	4	3											165	150	7
	Self Referral	10	12	10	3	5	6	6	11	1	11	7	4	4	19											54	86	23
Total Received		25	27	25	23	36	31	36	30	14	30	14	12	14	24											288	303	38
Considered	Considered													7	9											n/a	n/a	16
	Referred to FTP													2	0											n/a	n/a	2
	Admission rejected													0	0											n/a	n/a	0
	readmission rejected													0	0											n/a	n/a	0
	Renewal Rejected													0	0											n/a	n/a	0
	Not Referred to FTP													1	1											n/a	n/a	2
	Admission accepted													3	4											n/a	n/a	7
	Readmission accepted													1	4											n/a	n/a	5
	Renewal accepted													0	0											n/a	n/a	0
Open Cases														20	38													20

					2008		
Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar

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2005/6 FYE	2006/7 FYE	2007/8 YTD
36	27	0
33	40	0
165	150	0
54	86	0
288	303	0 *
n/a	n/a	n/a
n/a	n/a	n/a
n/a	n/a	n/a
n/a	n/a	n/a
n/a	n/a	n/a
n/a	n/a	n/a
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n/a	n/a	n/a
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