

Tribunal Advisory Committee

Public minutes of the 3rd meeting of the Tribunal Advisory Committee held on:-

Date: Thursday 16 November 2017

Time: 1pm

Venue: Room D&G, Health and Care Professions Council, Park House,
184 Kennington Park Road, London SE11 4BU

Present: Graham Aitken (part of item 7)
Catherine Boyd
Philip Geering
Shelia Hollingworth
Alan Kershaw
Marcia Saunders (Chair)

In attendance:

Claire Amor, Secretary to the Committee
Claire Baker, Tribunal Services Manager – Hearings
Ainslee Christensen, Hearings Team Manager
Brian James, Acting Head of Tribunal Services
Uta Pollmann, Partners and HR Manager

Public

Item 1. Chair's welcome and introduction

- 1.1 The Chair welcomed Committee members and the Executive to the third meeting of the Tribunal Advisory Committee
- 1.2 The Committee noted that the Panel Member and Chairs Competence Framework had undergone minor amendments since the last meeting of the Committee. These changes were agreed by the Committee by email. Hard copies were provided to Members for reference.
- 1.3 The Chair thanked Phillip Geering for his recent participation in a training video on the role of the Committee for future Panel Member training.
- 1.4 The Committee noted that the PSA had recently published its performance report for the HCPC. Some standards were not met. The Council will be considering its action plan in response in December. This will then come to a subsequent meeting of the Committee for discussion.

Item 2. Apologies for absence

- 2.1 Graham Aitken sent apologies for the meeting as he was scheduled to sit on a final hearing panel; he attended for part of item 7 only.

Item 3. Approval of agenda

- 3.1 The Committee approved the agenda.

Item 4. Declarations of members' interests

- 4.1 Catherine Boyd and Philip Geering declared an interest in the contents of the agenda, due to their role as HCPC Panel Chairs. The Committee agreed that this would remain a standing declaration of interest due to the nature of the Committee's remit. There were no other declarations of interest.

Item 5. Minutes of the Tribunal Advisory Committee meeting of 12th September 2017 (report ref: TAC 19/17)

- 5.1 The Committee received the draft minutes from its meeting held on 12 September 2017.
- 5.2 The Committee **agreed** the minutes.

Item 6. Matters arising (report ref: TAC 20/17)

- 6.1 The Committee noted the matters arising from its meeting of 12 September 2017.

Item 7. Strategy presentation and discussion

- 7.1 The Acting Head of Tribunal Services and the Partner and HR Manager provided the Committee with a presentation of a proposed three year plan to review and improve the FTP Partner system.
- 7.2 During the presentation the following points were noted:-
- the Executive consider that a long term project like plan is required to frame the improvement work as it is likely to have budget and resource implications which require approval from Council. It is also important to properly manage risk and expectations and ensure options are appraised to get the maximum benefit;
 - the first step is information gathering and reviewing data available identifying data which will be helpful to collect;
 - the competence framework is a 'foundation stone' in the system and a useful area for the Committee to have first focused on. This will be used to develop other areas including appraisals, feedback, complaints, recruitment, learning and quality assurance;
 - different models of recruitment and assessment will be reviewed as well as introducing more effective quality assurance of this process;
 - innovative training delivery methods will be explored, with the HCPC's internal teams having greater ownership of the materials and content;
 - going by financial years the information gathering exercise will continue in 2017-18 and into the beginning of 2018-19. Work on recruitment and guidance will also begin in 2017-18. The majority of improvement work will take place in 2018-19 and into 2019-2020 and assessment coming last in 2020-2021 to allow changes to embed; and
 - operational needs will need to be considered throughout the three year period and some work will be dependent on organisational projects. Some work will also require business cases or options appraisals to be signed off by Council; and
 - the strategy is a joint work shared by the Partner team and HCPTS management.
- 7.3 The Committee discussed the impact of Social Work England on FTP workload. It was noted that plans are no more clear than reported at the Committee's previous meeting and that the soonest date for a transfer is 2019 with the likelihood that the HCPC will be required to continue with

post ICP cases. From the HCPC's experience of the GSCC it could take another two years to clear these cases. Therefore it is unlikely that case volumes will decrease in the short to medium term.

- 7.4 It was noted that, contextually, the HCPC is currently in the process of replacing the registration system. This is likely to enhance data analysis capabilities. Additionally initial proposals for a new HCPC case management system are being developed though no approval has yet been sought.
- 7.5 The Committee noted that the current registration system does not collect equality and diversity information that can be used to compare against Partner data (which is held). The Committee considered that the UK population is the more appropriate comparison to use due to the HCPC's public protection remit. It was noted that the Executive do not intend to set a target for improving this representation, but instead commit to continuous improvement against previous performance. The Partners team also plan to improve their ability to track success by specific demographics at the different stages of the recruitment process to enable identification of significant variances.
- 7.6 The Committee **advised** the Executive to explore the experiences of healthcare and non-healthcare regulators in this area during the information gathering exercise, as the challenges will be the same.
- 7.7 The Committee discussed the challenges impacting on recruitment the following points were made by members:-
- the HCPTS is a very visible and scrutinized area of the HCPC and as such it is important that the right attention is paid to getting recruitment right;
 - due to budget cuts in the NHS and other registrant employers, it is less likely that those in active practice will be able to take the time out of work to sit on Panels. This is also true for lay panel members, and caution was urged against this group consisting of 'professional lay' members who solely focus on Panel work and become 'institutionalised';
 - HCPC's multi-profession model may pose challenge that other regulators will not have experience of when information gathering;
 - developing ICP only Panel Member roles could attract those unable to commit to week long hearings, it was noted however that experience of sitting on final hearing panels should be required before specialisation to provide the context for the decisions made at ICP;

- for smaller professions, focused recruitment in London could reduce time commitment concerns and make the role more attractive. Additionally the professional networks of existing partners should be utilised;
- the difference in pay rate between the Chair and Panel member role could prevent some candidates from applying as they would be unable to work for the lower rate. The current difference is marked and pay for the panel member role is not competitive;
- while pay is an important factor in attracting the right candidates, the narrative of the other benefits of the role should be developed, emphasising its role in supporting the profession and providing professional development opportunities. Additionally the perception of tribunals as solely negative, punitive function can be addressed by communicating the positive rehabilitation stories that are very rewarding for a panel member to be a part of;
- it was noted that the current practise of recruiting Chairs direct, externally rather than from within the Panel member pool is unusual among the regulators and should be reviewed. This could help reduce the perception of a steep jump in competency to Chair level and encourage more applicants;
- open or taster days could be explored, as could working with the professional bodies to promote the role to members, for example at annual conferences; and
- different assessment models will be explored, including group exercises. An awareness of the differing 'soft skills' of a profession profile will be incorporated.

7.8 The Committee discussed possible alternative models for feedback and appraisal. It was noted that observation is used elsewhere, for example ACAS, and that this could be explored during information gathering.

7.9 The Committee welcomed the strategy. It was noted that the Executive would summarise the discussion and circulate to members. Members **agreed** to provide feedback to the Executive, specifically the following questions;

- Have we missed anything major?
- Have we balanced the operational and developmental?
- Have we challenged ourselves sufficiently?

Item 8. Review of Practice Notes (report ref: TAC 21/17)

- 8.1 The Committee received a paper from the Head of Tribunal Services.
- 8.2 The Committee noted that according to the timetable agreed in May 2017, there were nine Practice Notes (PNs) that were due to be reviewed in November 2017. However the Executive has recently received the finalised PSA performance review. The Council will consider its response and any action arising from the report in December 2017 and following this a number of the areas in the Practice Notes will be reviewed in light of the Performance Report. For this reason the review has not taken place at this time. PNs were reviewed for the initiation of the HCPTS in April 2017, so the risk of major changes in the PNs outside of the PSA areas is minimal.
- 8.3 The Committee discussed the PN review process. Some members had wished to contribute suggestions for change to a PN due for review at the meeting. It was clarified that members should feed into the Executive proposals for change in keeping with the timetable agreed in May to enable the presented reviewed PN for approval to incorporate changes.
- 8.4 The Committee noted that a small change has been identified in one of the existing PNs that was not on the list to review. This relates to the process of restoration to the register, and follows experience of recent, successful restoration cases.
- 8.5 The Committee discussed the Restoration to the Register PN. It was **agreed** that on page three of the note the sentence 'those requirements must be satisfactorily completed' should be amended to 'those requirements must be satisfactorily fulfilled'. Additionally the Committee considered that the following paragraph starting 'where panels wish' could be better placed for flow.
- 8.6 The Committee **agreed** that on page seven of the PN the phrase 'only once' should be amended to 'only after' for clarity.
- 8.7 The Committee **approved** the revised Restoration to the Register PN subject to the amendments outlined in paragraphs 8.5 and 8.6.

Item 9. Partner team operational report (report ref: TAC 23/17)

- 9.1 The Committee received a paper from the Partners and HR Manager.
- 9.2 During discussion, the Committee noted the following points:-
- the Partners team is now at full complement
 - the major project to implement a partner information system is progressing towards a go-live date in December. The preparation work for this has required considerable resource;

- the recent panel member recruitment campaign was observed by the new Partner Manager and a number of changes have already been incorporated to the process;
- a more formalised quality assurance process is being introduced to ensure consistency and calibration between shortlisters and interview panel members;
- Panel member training is being reviewed and it has been agreed that the Solicitor to Council will now only attend induction and Legal Assessor refresher training; and
- the new self-assessment form is currently being trailed by three panel members.

9.3 The Committee discussed the revised panel member training structure, It was noted that positive feedback has been received and that the FTP team intends to take greater ownership of training delivery.

9.4 The Committee noted the report.

Item 10. Head of Tribunal Services report (report ref: TAC 22/17)

10.1 The Committee received a report from the Acting Head of Tribunal Services. The report provides a summary of a number of key areas of work relating to HCPTS hearing activity.

10.2 During discussion the following points were noted

- the trend of shorter and more frequent reviewable sanctions imposed at both final hearings and ongoing review stages continues;
- a review of systems and outputs of the Tribunal Service is planned for completion by December 2017. A paper will come to TAC in early 2018 with a summary of the findings of the review;
- a short video has been produced explaining the role of the TAC, for use in the training. More videos are planned to be available online to enhance Panel Member training;
- there has been a significant change in case law relating to dishonesty. This has been incorporated into Panel training; and
- the planned pilot for Chair's feedback will start shortly.

10.3 The Committee discussed the issue of the trend for short term reviewable sanctions. It was noted that an upcoming Partner newsletter will focus solely on this issue. The Committee **agreed** that their previous discussions on the subject would be referenced.

10.4 The Committee noted the report.

Item 11. Committee priorities, objectives and future agenda items

11.1 The Committee noted that the following papers would be consider at the next meeting on 19 February 2018;

- TAC strategy discussion overview
- Practice Notes
- HCPC PSA report response action plan

Item 12. Any other business

12.1 There was no further business.

Item 13. Date & time of next meeting:

13.1 Thursday 19 February 2018, 1pm

Chair.....

Date.....

Unconfirmed