

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the fourteenth meeting of the Health Professions Council held at **noon on Wednesday 8 October 2003** at the Marriott St Pierre Hotel and Country Club, St Pierre Park, Chepstow, Monmouthshire, NP16 6YS

PRESENT: Professor N Brook (President)
Mr. M. Barham
Mrs S Chaudhry
Mr R Clegg
Miss M. Crawford
Miss H. Davis
Ms C Farrell
Miss A Foster
Prof. J. Harper
Professor T Hazell
Dr. R. Jones
Prof. R. Klem
Mr C Lea
Mrs. C. Lloyd
Miss M MacKellar
Ms J Manning (part)
Mr. I Massey
Mrs C McGartland
Mrs. J. Pearce
Mr K Ross
Miss P Sabine
Mrs. B. Stuart
Mr. G. Sutehall
Dr A Van der Gaag (part)
Mr N Willis
Dr A Yule

IN ATTENDANCE:

Mr P Baker, Finance Director
Mrs A Barnes, Director of Legal Services
Mr T Berrie, Director
Mr. J. Bracken, Bircham, Dyson, Bell
Dr P Burley, Director of Education and Policy
Miss S Dawson, International Registration Manager
Miss C Harkin, UK Registration Manager
Mr C Middleton, Communications Director
Mr G Milch, Director

Ms N O'Sullivan, Secretary to Council
Miss L Pilgrim, Director
Miss C Savage, Director
Mr M Seale, Chief Executive and Registrar

Item 1.03/138 INTRODUCTION AND WELCOME

- 1.1 Professor Brook welcomed all members and non members, who were attending the meeting. She said how happy she was to see everyone after her absence and that it was a real pleasure to be fit enough to attend the meeting.

Item 2.03/139 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following Council members: Dr G Beastall, Mr M Collins, Professor J Lucas, Dr J Old, Mr W Munro, Miss E Thornton, Mrs J Stark, Professor D Waller,

Item 3.03/140 APPROVAL OF AGENDA

- 3.1 The Council approved the agenda and noted that item 20, Minutes of the Education and Training Committee held on 24 September 2003, would be included on 11 December 2003 Council agenda.

Item 4.03/141 MINUTES

- 4.1 It was agreed that the minutes of the thirteenth meeting of the Health Professions Council be confirmed as a true record and signed by the chairman subject to the following amendment:
- 4.2 Christine Farrell's name to be added to the list of those attending.
- 4.3 5.2.1 The Council noted that the application pack for new professions would be amended once a year and that the website would be amended to notify perspective applicants that there could be a delay in processing their application.
- 4.4 14.3 The Council noted that the Secretary of the Registration Committee should confirm why Mr G Sutehall was listed as an ex-officio member of that committee.

Item 5.03/142 MATTERS ARISING

- 5.1 There were no matters arising.
- 5.2 The Council noted that that the Chief Executive's Report would be included on 11 December agenda.

Item 6.03/143 PRESIDENT'S REPORT

- 6.1 Professor Brook informed the Council that Miss Foster, had been appointed Chairman of the Consumer Panel of the Financial Services Authority. She would be resigning from Council as of 31 December 2003.
- 6.2 The Council expressed its thanks to Miss Foster for her work on behalf of the Council and in particular for her chairmanship of the Communications Committee and the development of the Communications Strategy.
- 6.3 The President noted that she had little to report on her own behalf due to her recent absence.

Item 7.03/144 EDUCATION AND TRAINING COMMITTEE STANDING ORDERS

- 7.1 The Council received a paper from the Chief Executive.
- 7.2 Mr Bracken stated that it was necessary to amend the Education and Training Committee standing orders to bring them into line with those of the Council.
- 7.3 The Council approved the amendments to the standing orders by a unanimous show of hands. Those alternate members at the meeting, who were not attending in place of the registrant member, did not vote.

Item 8.03/145 NOMINATIONS FOR CHAIRMAN AND VICE CHAIRMAN OF COMMITTEES

- 8.1 At the 17 September meeting Council had agreed that each statutory and non-statutory committee should seek nominations from amongst their members for the positions of chairman and vice-chairman and that these would be considered at the next Council meeting.
- 8.2 The Conduct and Competence Committee had nominated Dr S Yule as Chairman and Mr K Ross as Vice-Chairman.
- 8.3 The Council agreed the above nominations.
- 8.4 The Education and Training Committee had put forward two nominations for the post of Chairman, Miss E Thornton and Professor D Waller and had also nominated Miss Thornton for the post of vice-chairman.
- 8.5 It was agreed that these nominations should be referred back to the Education and Training Committee and that the Committee should hold an election to decide the outcome. The outcome of the election would be brought back to Council for approval.

- 8.6 Council discussed the procedure for receiving nominations for Chairmen and Vice Chairmen of committees. It was noted that, under the rules or standing orders (as appropriate) of the statutory and non-statutory committees, the appointment of the Chairman and Vice-Chairman of each of those committees was ultimately a matter for Council which could, in its discretion, disregard any nomination made to it. Nonetheless it was agreed that nominations should be sought from committees and that committees were normally expected only to nominate one candidate for each post.

RESOLVED:

8.6.1 That in the event that more than one person sought nomination by a statutory or non-statutory committee as the Chairman or Vice-Chairman of that committee, it was for the committee to decide which, if any, candidate should be nominated by:

(i) requiring each candidate to be proposed and seconded by other members of the Committee;

(ii) allowing each candidate to make a presentation of not more than 10 minutes duration to the Committee;

(iii) determining by secret ballot which candidate to nominate to Council.

- 8.7 The Council also agreed that the Executive would write a paper on the process for nomination of Chairmen and vice-chairmen of committees for inclusion on 11 December Council agenda

Item 9.03/146 REGULATION OF NEW PROFESSIONS BY THE HPC
(Application and Presentation from the Clinical Physiologists)

- 9.1 The Council received an application for regulation from the Registration Council for Clinical Physiologists.
- 9.2 The Council received a presentation from Mrs A Burge, Chairman of the Registration Council for Clinical Physiologists, Ms L Smith and Ms J Howard was also in attendance. (copy requested from applicants)
- 9.3 The Council noted that a small number of Clinical Physiologists were registered with other regulatory bodies but these were very few in number and were mostly nurses who had extended their scope of practice.
- 9.4 The Council noted that there was widespread support among those Clinical Physiologists on the voluntary register for regulation and that this was undiminished by the potential cost of grandparenting and registration fees.
- 9.5 The lack of regulation of Clinical Physiologists was putting patients at risk as there were currently no mandatory national standards for

training and although the registration council of the Society of Clinical Perfusion Scientists could take disciplinary action against its members, it could not stop them practising.

- 9.6 With regard to evidence based practice the level of testing and consistency of reporting had improved, national guidelines had been approved and best practice was shared across the country. Regular auditing informed practice and change.
- 9.7 The Society was concerned about the protection of the public and were willing that the profession be regulated as part of another group(s). Discussions had been held with the Vision Scientists with regard to a joint application and the Society had produced guidelines about the criteria they would have to meet. However these discussions had not been completed before the application was submitted.
- 9.8 The Council noted that the Health Professions Order Part 11 Article 3(17) stated that: (17) the Council may (a) make recommendations to the Secretary of State concerning any profession which in its opinion should be regulated pursuant to section 60(1)(b) of the Health Act 1999.
- 9.9 The Council agreed to make a preliminary recommendation to the Secretary of State that Clinical Physiologists should be regulated. This preliminary recommendation would be subject to review in 18 months time when the extent of applications from healthcare scientists professions was known.
- 9.10 The Council agreed that the Chief Executive should write to the Secretary of State regarding this decision.

Action: MS

Item 10.03/147 APPLICATION FOR REGULATION BY CLINICAL PERFUSION SCIENTISTS – DRAFT LETTER TO THE SECRETARY OF STATE

- 10.1 The Council received a draft letter from the Chief Executive to the Secretary of State.
- 10.2 The Council approved the letter and agreed that this should be used as a standard letter to be sent to the Secretary of State following a provisional recommendation to regulate any of Healthcare Scientist aspirant groups. This would only need to be reconsidered by Council if it needed to be modified in some way.

Item 11.03/148 STRUCTURE OF THE REGISTER

- 11.1 The Council noted that a draft consultation paper on the structure of the register had been received at 17 September 2003 Council meeting.
- 11.2 A number of comments had been received on the draft paper. These would be included in an amended paper to be drafted by the Chief Executive.
- 11.3 The Council agreed that unless the comments received raised substantial issues, the paper would be circulated to Council members by email for information rather than for additional comments.

Action: MS

Item 12.03/149 TRANSITIONAL ARRANGEMENTS IN RESPECT OF 1960 ACT ALLEGATIONS

- 12.1 The Council received a paper regarding transitional arrangements in respect of 1960 allegations.
- 12.2 The Council resolved that the functions of the Council under Article 5(2) of the Health Professions Order 2001 (Transitional Provisions) Order of Council 2003 be delegated to the Registrar subject to the Registrar reporting to the Council on the exercise of those functions in the Chief Executive's Report.

Action: MS

Item 13.03/150 COUNCIL FOR THE REGULATION OF HEALTHCARE PROFESSIONALS – SECTION 29 REFERRALS

- 13.1 The Council noted that at the last meeting on 17 September 2003 it had been agreed that Mr Bracken should consider the process for the referral of health regulator's decisions to the courts by CRHP under s29 of the National Health Service Reform and Health Care Professions Act 2002 and the resource implications this might have for the HPC in relation to the transcription of hearings.
- 13.2 The Council noted that referrals should be rare and that CRHP should be looking for decisions which would involve a sanction being imposed which was significantly at odds with the allegation that the HPC had decided was well founded.
- 13.3 Under the HPC fitness to practise procedures Panels would adopt a two stage determination process, retiring to consider their verdict (findings of fact), then returning to announce their decision and, if they had determined that an allegation was well founded, to hear argument on mitigating or aggravating factors before retiring again and then announcing what, if any, sanction was to be imposed.

- 13.4 The Council agreed that given the separation of the finding of fact and sanctioning phase of HPC fitness to practise proceedings from the main hearing, it should be possible for the transcripts of the finding of fact and sanctioning phase to be produced ahead of the main transcript and within a timescale that adequately met CRHP's needs. On that basis the HPC would continue to use a single stenographer at hearings.
- 13.5 The Council noted that CRHP was currently consulting on the exercise of its powers. The HPC response to the consultation document would be considered at 11 December 2003 meeting of Council.

Action: MS

**Item 14.03/151 MINUTES OF THE REGISTRATION COMMITTEE
HELD ON 10 SEPTEMBER 2003**

- 14.1 The Council received the minutes of the Registration Committee held on 10 September 2003.
- 14.2 The Council noted that the Registration Committee would be discussing the health reference form again at a future meeting.
- 14.3 The Council noted that the Registration Committee had agreed that a panel of Committee members would be established to review information contained in the health reference form in cases where the form revealed possible problems with an applicant's ability to practise. A similar arrangement would be put in place where an applicant disclosed criminal convictions. The applicant's identity would not be known to the panel, each case would have a unique identifier number.
- 14.4 Mr Bracken confirmed that Occupational Health Departments could only carry out health checks on those coming onto the register if they had access to doctor's records for the previous three years.
- 14.5 The Council noted that the Registration Committee had expressed concerns regarding the partner recruitment exercise and that these were being resolved.
- 14.6 Miss Crawford noted that there was a need for clarity about the situation of those applying to come onto the register who had a disability.
- 14.7 A meeting to discuss issues surrounding health and disability issues would be held in London in early 2004.

**Item 15.03/152 NOTES OF THE FINANCE AND RESOURCES COMMITTEE
HELD ON 23 SEPTEMBER 2003**

- 15.1 The Council received the notes of the Finance and Resources Committee held on 23 September 2003.
- 15.2 The Council noted that the meeting had been inquorate and that therefore any decisions taken would be reconsidered at the next meeting of the committee.
- 15.3 Mr Lea noted although the formalities for the loan facility had been completed with the bank, he was dissatisfied with the amount of time it had taken to put these in place and that he would attend the next scheduled meeting with the bank so that he could indicate the Committee's dissatisfaction with the time taken for the facility to come through.
- 15.4 The Council noted that discussion on BDO's recommendation for contracts of employment for staff to include work for the Professions Supplementary to Medicine Charitable Trust was deferred to the next meeting when more would be known and BDO Stoy Hayward could attend to explain further their recommendation.
- 15.5 Miss Foster noted that she had received the paper setting out the mix of investments in the Pension Fund and noted that this represented a very balanced portfolio.

Item 16.03/153 RECOMMENDATION FROM PARTNER APPOINTMENTS PANELS

- 16.1 The Council noted that this item had been moved to the private section of the agenda.

Item 17.03/154 GUIDANCE NOTE ON INTERIM ORDERS

- 17.1 The Council received the Guidance Note on Interim Orders.
- 17.2 The Council noted that an Interim Order could be made at all stages of the process i.e. Investigating stage, Panel stage and Appeal stage.
- 17.3 The Council noted that this was a dynamic document which would be updated on the basis of case reports from the legal assessors advising on fitness to practice cases.
- 17.4 The Council approved the document and noted that this would be updated on a regular basis.

Item 18.03/155 GUIDANCE NOTE ON SANCTIONS

- 18.1 The Council received the Guidance Note on Sanctions.
- 18.2 The Council noted that, as with the Guidance Notes on Interim Orders, this was a dynamic document which would be updated on the basis of

case reports from the legal assessors advising on Fitness to Practice cases.

- 18.3 The Council agreed that a minimum period during which a sanction was imposed should be included in the document.
- 18.4 The Council noted that if a panel agreed to send a case to mediation it would need to be satisfied that there were no public protection issues with regard to the health professional involved. Mediation was only suitable for cases in which there were no public protection issues but there were issues which needed to be resolved between the registered professional and the complainant. Mediation should never be used in place of a sanction.
- 18.5 The Council noted that under the Health Professions Order 2001 a registrant who had been struck off could not apply to come back onto the register within the first five years of being struck off.

Item 19.03/156 GUIDANCE NOTE ON SUMMONING POWERS

- 19.1 The Council received the Guidance Note on Summoning Powers.
- 19.2 The Council noted that information regarding these powers would be disseminated via NHS conferences and that the HPC would investigate other means of spreading information regarding the new powers.

Item 20.03/157 DATES OF 2004/5 COUNCIL MEETINGS

- 20.1 The Council received a paper setting out suggested dates of meetings for the period from 1 April 2004 to 31 March 2005.
- 20.2 The Council agreed the following dates;

Thursday 13 May 2004

Thursday 15 July 2004

Tuesday 14 September 2004

Wednesday 6 October 2004 and Thursday 7 October 2004
- 'away day' -

Tuesday 7 December 2004

Wednesday 2 March 2005
- 20.3 The Council agreed that Committee Chairmen should work with Committee Secretaries to set meeting dates for their committees for the coming year. A calendar will be presented to the 11 December 2003 meeting of Council for approval.

Item 21.03/158 DATE AND TIME OF NEXT MEETING

21.1 The next meeting of the Council would be held at 10 am on Thursday
11 December 2003

21.2 Further meetings would be held on the following dates;

Tuesday 2 March 2004

Thursday 13 May 2004

Thursday 15 July 2004

Tuesday 14 September 2004

Wednesday 6 October 2004 and Thursday 7 October 2004
- 'away day' -

Tuesday 7 December 2004

Wednesday 2 March 2005