

THE HEALTH PROFESSIONS COUNCIL

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MINUTES of the eighteenth meeting of the Conduct and Competence Committee held at **11:00am on Thursday 20th April 2006** at the Health Professions Council, Park House, 184 Kennington Park Road, London, SE11 4BU.

Mr K Ross (Chairman)
 Mrs M Clark-Glass
 Professor C Lloyd
 Mr P McFadden
 Mr D Proctor
 Miss P Sabine
 Dr G Sharma

IN ATTENDANCE:

Miss S Butcher, Secretary to Committees
 Mr N Grassby, Case Manager
 Miss K Johnson, Director, Fitness to Practise
 Mr S Mars, Policy Officer
 Mr M Seale, Chief Executive
 Ms R Tripp, Acting Director of Policy

Item 1.06/01 INTRODUCTION AND WELCOME

- 1.1 The Chairman welcomed all Committee and non-Committee members to the meeting.

Item 2.06/02 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following committee members; Ms H Davis and Ms H Patey.

Item 3.06/03 APPROVAL OF AGENDA

- 3.1 The Conduct and Competence Committee approved the agenda.

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**Item 4.06/04 MINUTES OF THE CONDUCT AND COMPETENCE COMMITTEE
COMMITTEE MEETING HELD ON WEDNESDAY 25 JANUARY
2006**

- 4.1 It was agreed that the minutes of the seventeenth meeting of the Conduct and Competence Committee be confirmed as a true record and signed by the Chairman, subject to an amendment to 8.4 to include the fact that other health regulators were looking to establish home country representation in Northern Ireland, Scotland, England and Wales.

Item 5.06/05 MATTERS ARISING

- 5.1 Item 6.3 – Matters Arising – Equality and Diversity Strategy
The Committee noted that the Council had made some amendments to the Equality and Diversity strategy at their meeting in March. A revised paper would go back to Council for their review in May. A draft timetable for the implementation of the scheme would also be prepared by the Executive and included with the above paper.
- 5.2 Item 7.7 – Matters Arising – Operating Department Practitioners
The Committee noted that the summary of anecdotal evidence of types of cases heard for operating department practitioners had already been incorporated into the ftp annual report.
- 5.3 Item 8.7 – Matters Arising – Strategic Intent
The Committee noted that a mission statement had now been included in the strategic intent.
- 5.4 Item 9.5. and 9.7 – Matters Arising – Panel members and Panel Chairmen
Appraisal Review System
The Committee noted that the Partners Manager had sought legal advice on various aspects of the appraisal form and had made the appropriate amendments.

Item 6.06/06 CHAIRMAN'S REPORT

- 6.1 The Committee noted that the ftp Chairmen and Deputy Chairmen had met on the 3rd March 2006 to discuss the structure of the ftp annual report. The implications of the equality and diversity scheme were discussed and the forthcoming work to be undertaken on the review of the Standards of Conduct, Performance and Ethics.
- 6.2 The Committee noted that the annual report would contain a section on each of the ftp committee's work. The Secretary to the Committee had circulated this report to all members for their comment and should contact

her directly if any changes or amendments were required. The Committee agreed that further emphasis was required on the increasing ftp costs due to an expanding caseload.

Action: SB

Item 7.06/07 DIRECTOR OF FITNESS TO PRACTISE REPORT

7.1 The Conduct and Competence Committee received the Director of Fitness to Practise report.

7.2 The Committee noted that two allegations had not been well founded. The details of which would be provided at the Committee's next meeting in September.

Action: KJ

7.3 The Committee noted that the case to answer rate had increased and was pleased to note that the ftp database was now in place which was hoped to assist in the effective tracking and identification of such trends. A full analysis of the data gathered was to be provided in future ftp reports. The Committee agreed that it would be useful if the Director of Fitness to Practise gave a demonstration of the database's capabilities and uses at their next meeting in September.

Action: KJ

7.4 Training had been given to the ftp team by the NHS Counter Fraud Services. Additionally, a Panel Chairmen and Assessor review day had been held providing updates on case law and specific training on the decision making processes as exercised in the assessment of case materials. Further training needs had been identified in cases to answer.

7.5 The Committee noted that three High Court cases were currently outstanding. In one of the cases the registrant had unfortunately passed away which had therefore concluded proceedings. The second case had been listed for three days in the High Courts. The expense of this case would be further reviewed by Council at their meeting in May. The third case was referred back to a Conduct and Competence panel at the HPC for a further decision on the sanction. The department had received notification of an additional case which had been referred by the Council for Healthcare Regulatory Excellence (CHRE). A report on the number of cases referred by CHRE across all of the healthcare regulators was anticipated to be provided by CHRE in due course.

- 7.6 The Committee noted that a number of recruitments had been made to the ftp team which now consisted of a total of 11 employees.
- 7.7 The Committee noted that two cases had not been well founded. The cases had not been well particularised from the outset. The need to review the case management strategy was considered as a requirement for the future.
- 7.8 The Committee noted that the number of allegations received for physiotherapists had significantly increased. This was an anomaly that had occurred due to a number of incorrect entries that had originated from one course in particular. The figures were therefore expected to level off in May. The Committee noted that most allegations were made directly by employers. The Chartered Society of Physiotherapists (CSP) recently announced that they were no longer going to undertake caseloads which had been causing ftp case management problems previously.
- 7.9 The Director of Fitness to Practise updated the Committee on a new legislative framework which had arisen from the Bichard group formed in response to the Soham murders. The Bill was still being formalised but was to set up a new body; the 'Independent Barring Bill'. Part of the Bills aim was to integrate and extend the coverage of the existing barred lists in England and Wales. The Committee noted that the three separate barring lists operated under different legislation with different criteria and procedures and were identified as being inconsistent in their application and effectiveness: List 99 (Education), Protection of Children Act List (POCA) and Protection of Vulnerable Adults List (POVA). The independent barring bill looked to protect children and vulnerable adults.
- 7.10 The implications for HPC following the Bills introduction would be the necessity to provide to the new body a list of all 170,000 registrants past and present including those who had been struck off or whom were considered dangerous and a risk to the public. The Secretary of State was also obliged to inform the HPC of any instances where health professionals had been barred from practice and was an offence if such information was not disclosed. Provision was made for barred status under Article 5 of the Order and new allegations under Article 22(1) of the Order. Changes to the criminal records bureau (CRB) checks process were likely as were amendments to the ftp sanction notes. The Bill was only operative in England and Wales but was to be extended to Scotland and Northern Ireland imminently. The Committee noted that the likely timescale for implementation was mid 2007.

Item8.06/08 FITNESS TO PRACTICE ANNUAL REPORT 2006

- 8.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise for discussion/approval.
- 8.2 The Committee noted that the HPC was obliged to produce an annual report once every calendar year. The Health and Investigating Committee had already reviewed the ftp annual report at their recent meetings. The document had also undergone proof reading and checking by the Executive, the Director of Policy and the Council's legal advisor from Bircham Dyson Bell. The Committee were reminded to submit any typographical errors identified via e-mail to the Director of Fitness to Practise by the deadline of 27th April 2006.

Action: All committee members

- 8.3 The Committee reviewed the changes which had been recommended by the other ftp committees.
- 8.4 The Committee noted that radiographers had been omitted from the list on p20 and needed to be included again. The abbreviation for the profession podiatrist had also been omitted on p4. On p5 the Committee agreed that the types of complaints should be listed first and then who could complain after. P7 – The word panel had been used a lot and was not clear whether it was a health, investigating or conduct and competence panel. The definition of a panel would be included with clarification as to which panel the text was referring to. The Committee discussed the repeated reference to alcohol offences as committed by registrants. All were in agreement that the text implied that drug and alcohol addictions were prevalent when this was not the case. Other examples would therefore be used.
- 8.5 The Committee agreed that in the conclusion clarification was needed on the ftp committee structure and the process by which papers were approved subject to Council's overall ratification. Issues regarding the protection of the public would also be addressed and emphasised here. Additionally, the total percentage of the HPC budget which goes to the ftp department was considered to be useful information for inclusion, specifically to highlight the fact that costs will increase due to the complexity of cases.
- 8.6 The Committee approved the ftp annual report subject to the amendments as detailed and subject to Council's approval.

Item 9.06/09 ARTICLE 30 OF THE HEALTH PROFESSIONS ORDER 2001

- 9.1 The Conduct and Competence Committee received a paper from the Director of Fitness to Practise to note.
- 9.2 The Committee noted that legal advice had been sought about when a striking off order could be made when a suspension order, which was imposed in respect of a competence or health allegations were reviewed under Article 30 of the Health Professions Order 2001.
- 9.3 The Committee noted that suspension and conditions of practice orders must be reviewed before they expired, applications could also be made at other times to vary, replace or revoke an existing order. The practice Committee's powers were however limited to making an order which could have been made at the time the original order was made as provided in Article 29(6). The power therefore to make a striking off order in respect of a competence or health allegation only became available when a further allegation was made. The Committee noted that this did not constitute double jeopardy as the new allegation would relate to events and circumstances that were linked to, but occurred after, the previous decision.
- 9.4 The Committee noted that in cases where competence or health was a factor but where the registrant's behaviour amounted to misconduct – for example, being aware that health or competence was failing but continuing to practice in reckless or wilful disregard to the impact on patients – HPC would need to ensure that allegations were framed appropriately so that the option of striking off was available at the outset. Further training and internal guidance would be provided.
- 9.5 The Committee noted that it would also be possible to reduce the number of competence and health cases in which a second, striking off, allegation would need to be pursued if registrants who were subject to a suspension order could remove themselves from the register voluntarily. A practice committee could revoke a suspension order in a case where the registrant asked it to do so, provided that he or she immediately applied for removal from the register and, on the facts, there was no risk to the public (for example, where a registrant in failing health who was suspended wished to retire).
- 9.6 The Committee noted the paper for their information.

Item 10.06/10 SUPPLEMENTARY GUIDANCE TO THE STANDARDS OF CONDUCT, PERFORMANCE AND ETHICS

- 10.1 The Conduct and Competence Committee received a paper from the Director of Policy for discussion/approval. She was presenting the paper in the absence of Mr Guthrie, Policy Officer who was at that time attending a conference.
- 10.2 The Committee noted that it was to consider the desirability of producing guidance to the standards of conduct, performance and ethics (SCPE). HPC had received queries regarding SCPE which indicated the need for specific guidance to be issued on a small number of discrete areas; confidentiality, consent, record keeping and drugs administration. The policy department had enough money within its budget to publish guidance in one of these areas in this financial year. The rest of them could be slowly integrated over time.
- 10.3 The Committee discussed the fact that there was a high incidence of poor record keeping in the cases which ftp dealt and that further preliminary work could perhaps be undertaken here. The Committee was in agreement that further assessment of the most relevant issue for ftp was required listing the priority and rationale for each. The guidance notes issued by other regulators would also be reviewed for identification of themes. This would be reviewed at the Committee's next meeting in September. Feedback could also be obtained via the HPC newsletter and extranet.

Action: MG/SB

Item 11.06/11 THE WORKPLAN FOR THE STANDARDS OF CONDUCT, PERFORMANCE AND ETHICS (SCPE)

- 11.1 The Committee received a paper from the Director of Policy for discussion/approval.
- 11.2 The Committee noted that the work plan was reviewed by the ftp Chairmen and Deputy Chairmen's meeting on the 3 March 2006. The Committee agreed to the proposal that it should lead the review taking into account the views of the Health and Investigating Committee as well as the Education and Training Committee. The review would be initiated via an on-line consultation period during which feedback about the standards would be invited from HPC's stakeholders. The review was also proposed to be an item of discussion at the Council Away Day on the 4th – 5th October 2006 subject to the President's approval.
- 11.3 The Committee noted that a professional liaison group (PLG) had not been proposed in this instance as there was a plentiful supply of expertise

within the Council and internal knowledge. The need for an external group's input was therefore not required.

- 11.4 The Committee approved the work plan and recommended its approval by Council.

Action: MG

Item 12.06/12 ANNUAL REVIEW OF ACTIONS TAKEN 11TH JULY 2005 – 7TH JULY 2006

- 12.1 The Committee received a paper from the Secretary to the Committee to note.
- 12.2 The Committee reviewed the actions as taken from 11th July 2005 – 7th July 2006 and found it useful to see the work it had undertaken in the year.
- 12.3 The Committee specifically discussed the Foster and Donaldson review and that its outcome could potentially be released next week at the NHS Conference where Patricia Hewitt was to give a keynote speech. If this did not transpire the results were anticipated for release by September 2006 at the latest.

Item 13.06/13 ANY OTHER BUSINESS

- 13.1 There was no other business.

Item 14.06/14 DATE & TIME OF NEXT MEETING

- 14.1 The next meeting of the Conduct and Competence Committee would be held at 10:30am on Tuesday 19th September 2006.

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