

Health Professions Council – 29 May 2008

Revised members code of conduct

Executive summary and recommendations

Introduction

The members' code of conduct was agreed at the March 2005 Council meeting. This was updated at the March 2007 Council meeting to take account of Council's decision not to have a Vice-President.

In line with good practice that governance documents should be reviewed periodically the Executive has reviewed this document and has proposed a number of changes. Additions to the documents are indicated in italics, words that have been deleted have been crossed-through.

The main addition is appendix B which covers complaints against members.

Decision

The Council is asked to agree the revised members' code of conduct.

Background information

See members code of conduct on HPC website.

Resource implications

none

Financial implications

none

Appendices

none

Date of paper

14 March 2008 (carried over from 27 March 2008 Council agenda)

Council Members' Code of Conduct

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Council Members' Code of Conduct

A. Introduction

This document sets out the HPC's expectations of its Council members. As a regulator, the Council sets standards for the conduct, performance and ethics of health professionals on the HPC Register. The HPC therefore also feels that it is important that Council members maintain high standards in that role, and that these standards are made public.

This document contains information about the complementary roles of the Council, a Council member, the President, a committee chairman, a committee member and the President; and a Code of conduct for all Council members.

Application to committee members

Some members of the Council's statutory committees may not be members of the Council but will have been appointed to those committees in order to meet specific statutory requirements or to provide particular expertise.

Those members are appointed on the basis of separate written agreements with the Council but are also expected to adhere to the provisions of the Code of Conduct to the extent that they apply to such members and do not conflict with their written terms of engagement.

In particular, Part E and Paragraphs 1 to 3 and 5 to 7 of the Code should be read, with any necessary modifications, as if references to Council members were also references to committee members.

B. The role of the Council

The role of the Council is to:

- protect the health and well being of those using or needing the services of registrants;
- ensure that the organisation discharges its functions under the Health Professions Order;
- set, review, and update if necessary the strategic intent, and guiding principles;
- encourage open accountability to the public and the professions;
- appoint a Chief Executive and Registrar;
- undertake strategic planning, policy making and development;
- approve the HPC budget;
- ensure and monitor financial probity;
- delegate any functions, as it sees fit, to its committees or the Executive; and
- review how the HPC Executive are carrying out the Council's policy, and measure this against the policies and strategic intent.

C. The role of a Council member

The role of a Council member is to:

- contribute their knowledge and expertise to Council meetings, to aid effective decision-making;
- support the Council's objectives;
- ensure that they have a good working knowledge of HPC's role, processes and other information that may help their role;
- carry out their work for the Council in accordance with the Council members' code of conduct; and
- act as an ambassador for the HPC, representing the Council to stakeholders.

D. The role of a committee chairman

The role of a chairman is to:

- approve agendas and minutes for the committee;
- consult the committee secretary for advice as needed;
- manage the efficient and effective running of meetings by grasping the detail of a wide range of business, and contribute to objective decision making by exercising sound judgement;
- facilitate open discussion, and good decision-making;
- ensure that the meeting is conducted in accordance with the standing orders, and that all members keep to the code of conduct;
- act as spokesperson for the committee if required;
- exercise a casting vote if such action is necessary; and
- take 'chairman's action' ~~if needed~~ *where necessary and if authorised to do so.*

E. The role of a committee member

The role of a committee member is to:

- contribute their knowledge and expertise to meetings, to aid effective decision-making;
- support the Council's and committee's objectives;
- ensure that they have a good working knowledge of HPC's role, processes and other information that may help their role;
- carry out their work for the Council in accordance with the Council Members' code of conduct; and

Note: Chairman's action

It may be the case that deadlines, and the dates of committee meetings mean that the chairman of a committee is asked to take a decision on the committee's behalf in between committee meetings by 'chairman's action'.

The use of a chairman's action should be limited and only taken if the committee has delegated authority to the chairman for that purpose.

Whenever chairman's action is taken it will always be documented by the committee secretary and presented to the committee for ratification at their next meeting.

F. The role of the Council President

In addition to his or her role as a Council member, the HPC President will also:

- provide strong non-executive leadership, and encourage open and pro-active accountability to the public and the professions;
- act as an ambassador for the Council, inspiring confidence in the organisation and representing the interests of statutory regulation to outside bodies;
- develop and maintain constructive collaboration, networking and consultation with key stakeholders, and others when required;
- uphold the public interest in all that the HPC undertakes;
- chair meetings of Council (see information above on the role of a committee chairman);
- monitor and develop Council members' performance, providing support as necessary;
- *manage the process for handling complaints made against Council members; and*
- manage the Council's Chief Executive so as to secure effective oversight of the development and achievement of the Council's strategic, policy and operational objectives and compliance with its statutory responsibilities.
 - set the Chief Executive's objectives
 - monitor the Chief Executive's performance against these objectives
- ~~to nominate a suitable person or persons~~ *one or more members* to carry out the duties of the President if the President is absent or ~~unavailable~~ *otherwise unable to act.*

G. The Code of Conduct

This code of conduct particularly applies to Council members whenever they take part in Council business, or whenever they represent the Council.

Council members should also bear in mind that due to the high profile nature of their role, even when they consider themselves to be working entirely in a private capacity, or for another organisation, they may still be viewed as a representative of, or an ambassador for, HPC. They should therefore still be mindful of this code.

In addition, a Council member whose actions in another capacity may undermine their role as a Council member or public confidence in the Council, may have those actions judged against this code of conduct and action taken accordingly.

1. General guidelines

Council members should at all times:

- act in good faith;
- act in accordance with the Council's objective of protecting the public;
- act in accordance with the seven principles of public life as set out by the Committee on Standards in Public Life (see Appendix A);
- take personal responsibility for ensuring that they keep to the code of conduct; and
- treat others equally, fairly, and with respect.

Council members should not:

- act in a way that might bring the Health Professions Council into disrepute; or
- use their position for personal gain or to promote their private interests.

2. Confidentiality

Most information to which Council members have access as part of their role will be in the public domain. However, there will be times when they may have access to information that is confidential. This may include papers from private sections of Council or committee meetings, ~~information from panel hearings~~ or information relating to HPC employees.

Council members should not disclose any confidential information which they have been given because of their role as a Council member, other than for a proper purpose or if they are required to do so by law. Council members should take appropriate steps to ensure that confidential papers are stored securely. Members should contact the Chief Executive if the status of any information is unclear.

If a member becomes aware of a breach in confidentiality, they must immediately notify the Chief Executive or the President.

3. Attending meetings

Council members should endeavour to attend all Council meetings, and any meetings of committees of which they are a member.

There may be circumstances in which Council members are unable to attend a meeting, in which case they should send their apologies as soon as possible to the Secretary of the Council or the relevant committee. Registrant members who are unable to attend a Council meeting should inform their alternate, giving them as much notice as possible.

Where a Council member is unable to fulfil their role over a prolonged period, they will be asked to discuss their position on the Council with the President.

Council members' attendance records will form part of the Council members' annual performance review and particular consideration will be given to meetings where a Council member has not attended and has not given notice of their absence.

4. Council members' annual performance review

All Council members must participate in the annual performance review system, and follow the agreed procedure.

5. Register of members' interests

All Council members must complete a declaration of members' interests and thereafter take personal responsibility for ensuring that it is kept up to date. The register of members' interests is published online.

Council members must not accept gifts, hospitality, or benefits which might be seen to compromise their role or influence the decisions that they take. Gifts, hospitality or benefits offered as a consequence of HPC business must be registered with the Secretariat within a reasonable period of time, usually within 1 month.

6. Conflicts of interests

If Council members are participating in Council business where they might have (or be seen to have) an interest in the outcome, or any interest which could otherwise prejudice their decision, they should declare this.

Council members should remove themselves from discussion or even in certain circumstances from the room if items in an agenda may raise a serious conflict of interest. They should state this to the committee or council, so that it can be recorded in the minutes.

7. HPC employees

HPC employees carry out the functions of the HPC, under the strategic direction of the Council. Council members may be asked to sit on selection panels for certain posts, or to consider papers that are presented to meetings on employment issues, but will not take any other part in the employment matters.

The exception to this is the Chief Executive and Registrar, who is appointed by the Council and managed by the President of the Council.

Council members may wish to comment positively on the work done by employees. This can be done formally, for example by asking a committee to make a note of their thanks to a particular person or group, or by speaking to the employee's manager or to the Chief Executive, or more informally, directly to the employee.

However, any Council member with concerns about the behaviour or performance of an HPC employee should always raise these concerns with the Chief Executive, who will deal with the issue as appropriate.

If a Council member has concerns about the Chief Executive, these should be raised with the President.

8. Breach of the Code

Any minor breach of this code of conduct will be dealt with in the first instance informally, for example by the Chairman of a committee or another Council member drawing the breach to the Council member's attention during a meeting or similar.

If a Council member is concerned that another Council member may be in breach of this code, they should raise their concerns with the President.

However, where there is evidence of a deliberate, serious or continued breach of this code of conduct *or a complaint is received about the conduct of a Council member* this will be ~~taken up by~~ referred to the President, *who will act in accordance with the complaints procedure set out in Appendix B in a* and, ~~specialy convened meeting~~ if appropriate, *will convene a special meeting of the Council.*

9. Removal of a Council Member from office

A Council member may be removed from office as provided in paragraph 9(2) of Schedule 1 to the Health Professions Order 2001 and Standing Order 39 of the Council's Standing Orders.

The President may be removed from office as provided in paragraph 12(2) of Schedule 1 to the Health Professions Order 2001.

10. Appeals against removal from office

Any Council member removed from office may challenge that decision in the courts. However, although the rules do not provide a statutory right of appeal, the Council has adopted the following appeal process.

If a Council member wishes to appeal, they must write to the Secretary of the Council, within 28 days, stating that they wish to appeal, and stating the

grounds of their appeal. The Council member should also attach any additional information to this letter.

The Council will then convene a panel for an appeal hearing. The panel will consist of a legally qualified chairman, a lay HPC partner, and a registrant HPC partner.

Legally qualified chairman, for this purpose, means a person who:

- has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990);
- is an advocate or solicitor in Scotland of at least 10 years' standing; or
- is a member of the Bar of Northern Ireland of at least 10 years' standing.

The chairman of the panel shall be appointed on the recommendation of the chairman or president of the relevant law society, bar council or faculty of advocates.

In order that the appeal will be independent of the Council, no Council member or alternate may be a member of the panel. The legal chairman cannot be an HPC legal assessor, a Council or committee member or a solicitor, barrister or advocate who acts for the Council in any other capacity.

The appeal panel will determine its own procedures and the hearing will normally be conducted within the spirit of the rules for registration appeal hearings. The panel may decide either to allow the appeal or uphold the Council's decision

~~Updated at 29 March 2007 Council Meeting~~

Appendix A

The Seven Principles of Public Life*

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

* as set out by the Committee on Standards in Public Life (www.public-standards.gov.uk)

Appendix B

Complaints against Council Members

Introduction

1. *This procedure deals with the investigation of complaints made against Council members which arise in that capacity, including complaints made against Council members by HPC employees.*
2. *Complaints against members by HPC employees should be made to the Chief Executive. All other complaints against members should be made to the Secretary of the Council.*
3. *All complaints must be made in writing and will be referred to the President. If, in the opinion of the President, more detail is needed in order for the complaint to be considered, the President will ask the complainant to provide further details.*
4. *The President will determine conclusively whether a complaint is within the scope of this procedure. If the President determines that a complaint is not within its scope or is trivial or vexatious, the President will inform the complainant of that decision in writing, and the reasons for it, and no further action will be taken in respect of that complaint.*
5. *Where the President is unable to act or is the subject of a complaint, any reference in this procedure to the President shall be taken to be a reference to the Chair of the Conduct and Competence Committee.*

Conciliation

6. *If the President determines that a complaint is within the scope of this procedure, he or she may suggest that the complainant and the member seek to resolve the matter by conciliation and, if they agree, the President, with the consent of the parties, will appoint a conciliator.*
7. *If the complaint is resolved by conciliation, no further action shall be taken by the President in respect of the complaint.*
8. *If conciliation fails to reach a satisfactory outcome, any admissions or statements made during the course of the process will not be admissible in any subsequent investigation or consideration of the complaint.*
9. *In any case where:*
 - A. *the President considers that the complaint is unsuitable for resolution by conciliation;*
 - B. *a party does not agree to take part in conciliation; or*
 - C. *conciliation fails to resolve the complaint;*

the President will nominate an Independent Reviewer to investigate the complaint.

Investigation

10. *The President will nominate a person (the **Independent Reviewer**) to investigate the complaint and report on the matter to the Council as to whether:
 - A. *on the balance of probabilities, the allegations contained in the complaint are factually correct; and*
 - B. *on the basis of those facts, the member has breached the Code of Conduct for Council Members.**
11. *Where the Independent Reviewer concludes that a breach of the Code has occurred, he or she may also recommend to the Council the action which it should take against the member concerned in respect of that breach.*
12. *Subject to paragraph 13, the Independent Reviewer will determine the procedure to be followed in conducting the investigation, including the lines of inquiry to be pursued, the persons from whom evidence is to be sought and the form in which that evidence is to be given.*
13. *The Independent Reviewer shall:
 - A. *send a copy of the complaint to the member concerned and invite him or her to submit a written response within a reasonable time (which shall in any event be not less than 14 days);*
 - B. *send a copy of any response from the member concerned to the complainant, and provide him or her with a reasonable time (which shall in any event be not less than 14 days) in which to comment on it.**
14. *The Independent Reviewer may be provided with administrative support by HPC and may obtain legal advice from the solicitor to the Council but, if the Independent Reviewer wishes to obtain independent administrative support or legal advice, the Council shall meet the reasonable costs incurred by the Independent Reviewer in doing so.*

Report

15. *Once the investigation has concluded, the Independent Reviewer shall prepare a report (the **Report**) setting out the findings of the investigation, the conclusions reached, any recommendation made in accordance with paragraph 18 and the reasons for them.*
16. *The Report shall also include all of the documents considered by the Independent Reviewer (other than any legal advice given to the Independent Reviewer or any other privileged communication).*

17. *The Report shall be submitted to the President and, at the same time, a copy shall be sent to the complainant and the member concerned.*
18. *If the Independent Reviewer concludes that there has been a breach of the Code, the Report may include one or more of the following recommendations:*
- A. *that no action be taken;*
 - B. *that the member be admonished by the Council;*
 - C. *that the member be suspended for a specified period (of up to three months);*
 - D. *that the member be removed from the Council;*
 - E. *that a report be submitted to the police, another regulatory or law enforcement agency or to a prosecuting authority.*

Council Procedure

The President shall convene a meeting of the Council, to consider the report.

The Report shall be considered as public business but, at the discretion of the President, the Report may be taken as private business where:

- A. *the Independent Reviewer has dismissed the complaint;*
- B. *the complaint concerns the health of any person;*
- C. *the complaint concerns confidential information; or*
- D. *the Independent Reviewer has recommended that the police or a regulatory, law enforcement or prosecuting body be informed of the matter;*

and, in case of D, the President may determine that the Council shall not make public any information relating to the matter until the conclusion of any action by the police or other body concerned.

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