

Health Professions Council – 11 February 2010

Conclusions from Council workshops

Executive Summary and Recommendations

Introduction

At its away day in October the Council held two workshops, on Equality and Diversity and on the Fitness to Practise Process. Outlines of these workshops, including conclusions, are attached.

Conclusions from the workshops have informed the development of the Fitness to Practise, Policy and Standards and Communications Department work plans for 2010-2011 and will contribute to the further development of policy over the coming year.

Decision

The Council is invited to note the summaries. No decision is required.

Background information

None.

Resource implications

Any work to be taken forward will be reconciled against departmental work plans.

Financial implications

None.

Background papers

None.

Appendices

A – Note of workshop 1 – “Equality in context”

B – Note of workshop 2 – “Fitness to Practise, a new approach to professional regulation”

Date of paper

Monday 1 February 2010

Appendix 1

Workshop 1 – Equality in context

Presentation to the Council

Bob Collins, Chief Commissioner, Northern Ireland Equality Commission

The Council invited Bob Collins to speak on the theme of equality and diversity. Bob gave a presentation and led a workshop. An outline of Bob's presentation and questions and conclusions from the workshop are included below.

1. The challenge of equality in Northern Ireland

The challenge in the field of equality is to grow out of our experiences. We see the world through the prism of our own experiences.

Challenges

Northern Ireland has been challenged to re-envision itself. Here is some of the context:

- difficulty people have experienced in coming to terms with their differences;
- two cultures living with each other for 400 years;
- concertina like movements of harmony and discord over that period;
- people have an intimacy that excludes affection; and
- two behaviours this community often exhibit; looking glass syndrome, where the reference point is themselves; and see-saw syndrome, or "you're up because I'm down".

"Most people if asked to define the chief symptoms of the Northern Ireland troubles would say it is that the two communities cannot live together. The very essence of the Ulster question is that they do live together and have done for centuries. They share the same homeland and, like it or not, the diametrically opposed political wills must co-exist on the same narrow ground." (Stewart, 1977)

Legislation

- Specific provisions for monitoring employers to ensure that they are not acting in a discriminatory way (alone in the UK);
- Legislation has made an impact on behaviour. The percentage of Roman Catholics and Protestants in work is now roughly the same. Unemployment figures were traditionally imbalanced. This shows that the centre of gravity can be shifted.

- Northern Ireland Act 1998 (commission established); public authorities under obligation. Process of development, review and monitoring of equality schemes by the Commission;
- Reading the map is no substitute for taking the journey.
- Only 5% of children in Northern Ireland go to integrated schools.

2. The nature of equality and diversity

Development of equality and diversity

Diversity is a word that we load with meaning and deprive of meaning. It can be seen as something which is imposed on people. Equality and diversity has become detached from the norms of life; a ribbon that is tied on. Many people believe it to be a waste of time for these reasons.

The issue is that people have access to allow them to achieve the full limits of their capacity.

Everything that we do needs to recognise and respect the community in which we are working. If you don't do this you will not be working effectively. The challenge is to respect, validate and confer substance in people's lives, and particularly the differences between their lives and our own.

The debate is often seen as a chore. The term "political correctness" is a convenient way of dismissing activities that are otherwise designed to help; populism for the sake of it. This is partly designed to make people feel uncomfortable.

It is a challenge to separate the right to help from the need to take responsibility (not to protect the right not to fall down whilst learning how to dance).

Interrogation of practices

Organisations should not canonise their own activities. "What is it that we should do? and "what is it that is essential that we do" are separate questions.

Disasters are always obvious when they have happened. The real challenge is to balance considerations.

- What is really essential; the core intention?
- How do we challenge this?
- How do we present ourselves in terms of what we offer?
- How do we think people will understand when we have carried out our responsibilities?

3. Group discussion

The group held a general discussion around the themes in Bob's presentation. The discussions threw up a number of questions which are recorded below. The group then split into smaller workshop groups to discuss these questions in further detail.

When you move away from ticking boxes, how do you achieve harmony?

The first step is to understand the fundamental starting point. The irreducible minimum is to recognise that we are simply part of a mosaic. The picture is not complete until you are able to recognise every part of the mosaic in its proper place.

The state of harmony is not achievable without recognising the wideness of society. The positive discussion of different needs and the situation this creates. A good sense of perspective; to spend time outside of thinking of ones self as the centre of the universe.

How does a public body build this philosophical approach into process?

In order to assess whether you have built in a philosophy is to avoid measuring effects separately. Implicit is the protection of the public. We must integrate into our thinking an awareness of the complexity of the people we deal with. We need to see ourselves as part of the community we serve. Our service is not something we *give* to them, it is something we *do with* them.

Questions

- How do we know our real purpose, and how can we guide our actions in line with it?
- How do we avoid self validation, which removes us from reality?
- What is it appropriate to leave others to do?
- How do we present ourselves? What expectations are generated by this?
- Do the rights of the public outweigh the rights of the registrant?
- Could we be doing more to help employers?
- Do our documents lay down our purpose in relation to our actions?
- How do we reach vulnerable groups?
- Is the information we collect valuable, relevant or changing anything?
- What assistance do we give to people who make complaints?

Issues from workshop groups

- Should HPC be concerned about the equality and diversity issues of its registrant's communities?
- Is it HPC's responsibility to do something about equality in these communities if we recognise it?
- Can we extend the work done on the "campaign for older people" to other groups?
- How do we ensure that our fitness to practice processes treat people equally and fairly?
- How do we measure our achievements?
- How do we measure what stakeholders, and particularly registrants, think of HPC?

- How do we adapt our style to speak to different groups?
- What actions are we completing that make a difference?
- How do we measure this, and how do we show it?
- What are the risks and benefits of ensuring that we have a diverse range of voices?
- How do we incorporate voices that feel like disharmony?
- Can we change the song or should we be listening in a different way?
- How do we find manage the engagement between the things we know best, our internal voice, and those we are here to work for?

These questions have informed various part of the Executives policy development processes, as well as its general practices. For example, the Communications Department is considering similar projects to the Campaign for Older People as part of its long term process and will investigate stakeholder views of HPC as part of its opinion polling exercise.

Conclusion from Bob Collins

We have made culture a sacred thing. The real test is the extent to which we are capable of changing ourselves. How do you recognise that your culture is not perfect?

Searching for disharmony can be challenging, but can be very rewarding.

Appendix 2

Workshop 2 – Fitness to Practise, A new approach to professional regulation?

Presentation to the Council – Kelly Johnson, Director of Fitness to Practise

The Council received a presentation from the Director of Fitness to Practise, and broke into groups to consider a number of questions relating to its fitness to practise function.

The feedback from the groups is outlined below.

1. How can we be sure that our fitness to practise process is reflecting our commitment to justice and fairness?

The group considering this question first of all considered what the terms “justice” and “fairness” meant before going on to consider the remainder of the question.

The group felt in the context of HPC’s fitness to practise process,, “justice” meant integrity of outcome, with “fairness” meaning how we conducted the process in order to achieve the outcome.

The group considered that the principles of natural justice were inherent within our processes however there were some caveats to this when considering interim suspension orders.

The group considered that more work need to be done in understanding both case to answer and not well founded cases. This would help in further informing the development of its fitness to practise process.

The group talked about how justice was aided by having Legal Assessors, clearly defined processes and policies and a desire to ensure that processes were not as adversarial as had previously been the case.

The group then considered how we **know** that our processes are reflecting our commitment to justice and fairness and discussed how the following contributed;:

- internal audits of the process
- external audits of the process and cases
- Review(s) of:
 - o High Court Cases
 - o CHRE cases
 - o Final hearing determinations

- Case to answer determinations

2. Is substance misuse, or abuse, a misconduct or health issue?

This question generated considerable debate within the group. The following topics were discussed:

- How it is possible to disaggregate health from misconduct when health often contributes to the misconduct?
- How we can ensure that the action we take in health cases is fair, proportionate and equitable?
- In order to ensure equitability, we may need a wider range of options to consider cases
- Whether the current legislation gives rise to any difficulties

3. What would your expectations be if you made a complaint in terms of initial expectations, case handling or outcome

This question forms part of the wider work the Council is doing in understanding the expectations of complainants. The group discussed the importance of ensuring that information provided to all stakeholders is clear and easy to understand. The group commented that they would expect:

- Timeliness in communications
- signposting early on as to how the complaint would be dealt with
- a timetable which set out the how the complaint would be managed
- a named contact throughout the course of the proceedings
- additional support for vulnerable witnesses/complainants
- All parties be kept informed throughout the process

4. Should or does alternative dispute resolution have a role in the fitness to practise process of a professional regulator and if so what is it?

This question prompted a wide ranging discussion amongst all of the groups. The group(s) considered that it would be helpful for the Council to further understand:

- The principles of mediation and how it could work for a professional regulator
- What lessons there were from other regulators and organisations who use alternative dispute resolution
- What terminology is currently used by others who are active in this area in order to inform our understanding of the topic
- How mediation could work within our system(s) and what lessons we could learn from other justice providers
- Whether it would be appropriate for the HPC and our “complaints” function rather than our fitness to practise function
- How alternative dispute resolution could work for those working independently or in the private sector
- Whether HPC should take a view that a certain type of case should go straight to mediation
- Whether there are ways to deliver alternative dispute resolution within existing processes
- What alternative dispute resolution could entail for the HPC

- What issues would alternative dispute resolution or mediation resolve
- What the dangers of such approach might be

The group(s) discussing this question also discussed:

- The need to adopt a tailored solution according to the needs of each case
- How the current processes may intensify the feeling of unhappiness, and how we need to continue to ensure that we manage complainants expectations of what a fitness to practise process can achieve
- How we have mechanisms to resolve cases via consent
- How we need to keep in the mind the difference between the purpose of a fitness to practise process and the purpose of a complaints resolution process
- How more work needed to be done in order for Council to properly inform itself on this topic

Conclusions

Many of these questions and the discussions of the Council have informed the development of the fitness to practise and policy and standards work plans for 2010-2011 and will contribute to the further development of policy over the coming year.