

Fitness to Practise Work plan 2012-13

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Introduction

This document sets out the resources, responsibilities and priorities for the financial year April-March 2012-2013. It addresses how the Fitness to Practise department will grow, develop, improve and progress and provides a basis against which the work of the Fitness to Practise department can be planned and measured.

As in previous years, the Fitness to Practise department due to the nature of its work will also have to manage high profile cases which will attract media interest, respond to High Court appeals and manage allegations which require an interim order. It is important that departmental planning allows for timely responses to unpredictable situations when they arise. This year also sees the transfer of the regulatory responsibilities of the General Social Care Council to the HPC with a comprehensive project plan in place to ensure the effective transfer.

Resources

Human Resources

It is anticipated that the fitness to practise directorate will increase from a permanent headcount of 43 employees in 2011-2012 to a permanent headcount of 68 employees in 2012-13. This increase in headcount takes into account both the requirements to manage the work load associated with the existing 15 professions regulated by the HPC and the future regulation of social workers in England. The proposed future structure will help to ensure that the organisation of the directorate will remain fit for purpose in the coming years. The proposed new structure provides for the recruitment in the coming years of the new posts of:

- Head of FTP Assurance and Development
- Head of Investigations
- Hearings Team Leader
- PA to the Heads of FTP Functions
- Case Support Team Manager
- Case Advancement Team Manager
- Case Managers – Advancement Team
- FTP Assurance and Development Officer

Financial Resources

It is anticipated that there will be a fitness to practise budget of approximately £9.8 million.

Forecasting

The forecast for 2012-13 also includes cases transferred to the future HCPC from the GSCC and new cases concerning social workers in England.

This budget is based on an estimated 1450 new allegations being received in 2012-2013. It is anticipated that case managers will manage approximately 2461 cases over the course of the financial year (this figure includes a carry-over of cases from 2011-12 and a number of cases transferred from the GSCC to the future HCPC).

It is anticipated that there will be approximately 1250 days of hearing in 2012-2013 (comprising of full hearings, consent applications, interim orders, review hearings, investigating panels and registration appeal panels). It is anticipated that approximately 370 cases will be concluded in 2012-2013. The budget is based on hiring external venues outside of London as hearings are also held in Northern Ireland, Scotland, Wales and other English venues every year.

The budget estimate also includes CHRE and registrant appeals to the High Court, appeals against registration appeal decisions, protection of title field work and other

tribunal related works. The costs of appeals that were made in previous financial years and but not concluded are also included in the 2012-2013 budget.

The budget is also predicated on fitness to practise case managers presenting interim orders, Article 30 review hearings, consent applications and some conviction FTP cases. Case Managers present all investigating panel and health and character cases to the investigating/registration panel.

Main Operational Processes

There are five main processes which generate the majority of the department's work. These are listed below. This work plan will be amended accordingly in line with increased operational requirements.

1. Fitness to Practise Allegations

The investigation of allegations to the effect that a registrant's fitness to practise is impaired and the management of cases through to their conclusion. This includes witness liaison, instructing lawyers and preparing and presenting cases at investigating, interim order, final and review stage.

2. Hearings Management

The organisation and scheduling of all fitness to practise and registration appeals hearings and all follow up work related to hearing outcomes

3. Health and Character Declarations management

The process by which HPC manages declarations from registrants and applicants on admission, readmission and renewal to the register.

4. Prosecutions of Offences

The investigation and management of offences under Article 39 of the Health Professions Order 2001. This includes field investigation and prosecuting offences in the magistrates court.

5. Registration Appeals

The management of cases where an applicant or registrant has appealed against a registration decision.

Other Activities

There are a number of other areas and activities which support and affect the processes operated by the Fitness to Practise department. The following paragraphs summarise these activities.

1. Publications

A number of publications are produced by the fitness to practise team – ranging from the fitness to practise annual report and brochures explaining the processes, through to practice notes on interim orders and allegations, and other documents such as those explaining the registration appeals process. These documents are updated and reviewed regularly.

2. Website

The department is responsible for information provided on the HPC website regarding fitness to practise hearings as well as the information online about the fitness to practise and protection of title processes.

3. Panel recruitment, selection and training

In 2011-12 the department will work with the Partners Team to appoint, reappoint, train and appraise panel members, panel chairs and legal assessors.

Review days will take place for Legal Assessors and Panel chairs. These review days are used to update legal assessors and panel chairs on regulatory law updates, provide feedback on CHRE learning points and look at ways to improve decision making.

The department will continue to design and deliver the training of all new panel members, including two day training sessions for all new panel members, and the on-going programme of refresher training for existing partners. We will continue to send quarterly updates to all partners in the form of a newsletter on the work of the department and other relevant updates.

4. Committee Work

We will continue to work with the Fitness to Practise Committee, Education and Training Committee, Finance and Resources Committee and Council as appropriate.

5. Liaison with stakeholders

We will continue to work with all stakeholders (including employers of registrants) to improve understanding and accessibility and feedback trends that have arisen out of fitness to practise cases. The department will continue to support the Communications department with representation at conferences and employer events and will continue to present to relevant stakeholders on the fitness to practise process. We will continue to be involved in advisory groups (such as those run by

CHRE and the Department of Health) and quarterly meetings with Unions and Professional Body groups.

6. Transfer of new professions

We will work to ensure the effective and efficient handover of conduct cases from the General Social Care Council

7. High Court cases

We will continue to manage high court cases – this includes both cases when registrants appeal the decision to find their fitness to practise impaired and/or impose a sanction and when CHRE refer a case in accordance with Section 29(4) of the National Health Service Reform and Health Care Professions Act 2002. We will ensure that we disseminate outcomes as appropriate and make any necessary changes or improvement to fitness to practise processes.

8. Supplier Management

We will closely manage our relationship with all our key suppliers, including keeping under review our contracts and service level agreements with these suppliers

9. Major Projects

Members of the fitness to practise department will also contribute to and be on the project team for the following projects:

- Fitness to Practise Case Management System
- Transfer of the regulatory functions of the General Social Care Council
- Partner systems review
- Finance system upgrade
- Regulation of traditional Chinese medicine practitioners and herbalists
- Setting up and maintaining voluntary registers.

10. Other

We will work with the Registrations department to ensure that common areas of work are effectively managed.

We will also work with policy and standards department in responses to consultations, the CHRE performance review and in providing statistical information for research and work that that department is undertaking.

We will also continue with reviewing cases to determine whether a referral to the ISA or Barring Board is necessary and respond to requests for information from those organisations as appropriate.

Achieving the Fitness to Practise Department Objectives 2012-2013

The headline objectives for 2012-2013 are broadly the same as previous years but with different tasks to meet the objectives. Those objectives are as follows:

- **Ensure accessibility and improve communication and information provision** – we will continue to look at ways in which we can ensure that all stakeholders that come into contact with any element of the work of the Fitness to Practise Department receive a high quality of information and service.
- **Effective Management and Development of Legislative and New Operational requirements** – There are a number of legislative and operational projects and developments which will require the input, involvement and leadership of the fitness to practise department in 2012-2013 We will endeavour to ensure that those projects and developments are managed within agreed timescales.
- **Consistent and effective decision making** – We will endeavour to continue to improve the quality, consistency and effectiveness of decision making, both by panels and members of the department.
- **Ensure processes and procedures are working to their best effect** – We will continue review our way of working to ensure we meet the HPC's goal to ensure public protection whilst balancing the human rights of registrants.
- **Ensure effective management or resources** – We will undertake further activities to ensure we manage effectively the resources in place to support the work of the department.
- **Ensure effective management or risk** – The Fitness to practise directorate manages a number of risks in relation to its functions. We will ensure we will continue to manage these risks appropriately.

Equality and Diversity Impact Assessment

We will ensure that as we complete our work plan and review the policies and procedures that are in place, we will ensure we will take into account any issues that could have an adverse impact and mitigate against this.

We will continue to aim to improve accessibility to the fitness to practise process.

Fitness to Practise Activities Table 2012-2013

Ensure accessibility and improve communication and information provision

Activity	Rationale	Description	Timescale	Role(s) responsible
Fitness to Practise Annual Report	Legislative requirement	Production of 2012-2013 Fitness to Practise Annual Report	April –June 2012 write report 26 May 2012 – seek committee approval 7 July 2012 – seek Council approval September 2012 - publish	Investigations Manager
Attendance at Employer Events	Ensure awareness for employers of how the fitness to practise process	Attend and participate in the continuing series of employer events	To be confirmed	All

Activity	Rationale	Description	Timescale	Role(s) responsible
	works			
Practice note review and development	Aid to all parties involved in fitness to practise proceedings. To ensure HPC proceedings remain open and transparent to all parties	Ensure all practice notes are kept up to date, remain fit for purpose and take account of relevant High Court or Court of Appeal Decisions	On-going	Director of Fitness to Practise
Stakeholder management meetings	To continue to improve awareness of the Fitness to Practise process amongst all stakeholders groups	To engage and attend meetings with all relevant stakeholder groups	On-going	All
Continued liaison with other departments – in particular, Communications, Registrations and Partners	Ensure effective liaison and communication with other departments to assist in meeting the objectives of the department and wider organisation	Continued liaison with other departments, in particular Communications, Registrations and Partners	On-going	All

Effective Management and Development of Legislative and New Operational requirements

Activity	Rationale	Description	Timescale	Role(s) responsible
Implementation of Case Management System	Ensure HPC is able to continue to effectively manage all types of cases	Go-live with the new case management system in April 2012	April 2012	Case Management System Project Team
Undertake requirements of the Protection of Vulnerable Groups and Safeguarding Vulnerable Groups Act and keep up to date with any changes	Legislative requirement	Continue to refer cases as appropriate Engage with the relevant stakeholders and keep up to date with any changes in this area	On-going	Director of Fitness to Practise, Head of Case Management
Transfer of the General Social Care Council	Legislative requirement	<ul style="list-style-type: none"> - Continue to engage with GSCC regarding the proposed transfer - Effective transfer of cases - Provide advice and guidance to the GSCC on conduct case files - Organise appropriate training for the team in preparation for the transfer (see separate departmental training section) 	Until August 2012	Director of Fitness to Practise, Head of Case Management, Head of Adjudication

Herbalists and Traditional Chinese Medicine	Legislative requirement	<ul style="list-style-type: none"> - Prepare an operational model of licensing - Prepare training material - Prepare standard documents 	To be defined	Head of FTP Assurance and Development
Modern and Efficient Adjudication	Ensure operational processes are reviewed as per the work plan prepared following the publication of CHRE's paper titled 'Modern and Efficient Adjudication'	<ul style="list-style-type: none"> - Put in place enhanced quality assurance, case progression and feedback mechanisms - Operational efficiencies - Wider use of consensual disposal - Post case to answer – settlement conferences - Support mechanisms and advisory services - Research and review a new model of adjudication - Independent Adjudicative models - Review and implement enhanced Case Management Techniques to aid in the speedy conclusion of cases - Fitness to Practise in the 'round' 	Throughout 2012-13	Director of Fitness to Practise, Head of Case Management, Head of Adjudication, Head of FTP Assurance and Development
Effective communication within the department	To ensure that adequate communication methodologies are in place in preparation for the on-going growth of the department	Develop and enhance communication methodologies strategy	Feb 2012-Aug 2012	Director of Fitness to Practise

Consistent and effective decision making

Activity	Rationale	Description	Timescale	Role(s) responsible
Review of decisions	Ensure effective decisions and feedback any learning into policy documents and feedback for stakeholders	Feedback learning from decisions to registrants and stakeholders and incorporate into review of relevant policy documents. Ensure decisions are of a high quality	On-going	Head of Adjudication, Hearings Manager, Head of Assurance and Development
CHRE learning points	Ensure cases are appropriately managed and that decisions are well reasoned	Review and feedback learning points from CHRE in their section 29 role to improve HPC's processes and procedures and to improve decision making	On-going	Head of Adjudication, Hearings Manager, Head of Assurance and Development
Panel Chair, Legal Assessor and Panel member review and training days	Ensure effective decision making and that information is properly disseminated	Prepare and present review and training days for FTP partners	On-going	All
Partner recruitment	Ensure sufficient partners are in place to deal with Fitness to Practise hearings	To assist Partners in the recruitment of panel members in preparation for the transfer of Social Workers	Dec '11 – June '12	Head of Adjudication, Hearings Manager
Partners project	Ensure partner systems and processes are fit for purpose	Contribute to and be part of the project team reviewing partner systems and processes	September 2012- March 2013	Head of Adjudication and Head of FTP

Activity	Rationale	Description	Timescale	Role(s) responsible
				Assurance and Development

Ensure processes and procedures are working to their best effect

Activity	Rationale	Description	Timescale	Role(s) responsible
Operating guidance and standard letters	To aid case management and hearings procedures and to ensure consistency in the handling of all types of cases	Ensure all Fitness to Practise Operational guidance and standard letters are kept up to date, remain fit for purpose and new guidance/ letters are produced as and when necessary.	On-going	All
Review of health and character cases	To review the nature and outcomes of health and character declarations made on admission, readmission and renewal and ensure the process is operating effectively	Review cases managed since the previous review and report findings to the Education and Training Committee	July 2012	Lead Case Manager – CT3 / Investigations Manager
Handling of Data Protection Act and Freedom of Information Act requests relevant to Fitness to Practise	Increasing number of requests	Ensure the department has a clear and consistent approach to the management of such requests and ensure evidence is managed in accordance with those principles	On-going	Head of Investigations
Alternative mechanisms to resolve disputes	As agreed by Council in October 2011	<ul style="list-style-type: none"> - Stakeholder engagement - Stakeholder meetings - Communication plan - Prepare operational pilot 	February – October 2012	Head of Case Management, Head of Adjudication, Head of

Activity	Rationale	Description	Timescale	Role(s) responsible
		<ul style="list-style-type: none"> - Implement operational pilot 		Assurance and Development
Feedback mechanisms	To continue to provide clear communication and use feedback to inform work/ processes – linked to CHRE paper titled ‘modern and efficient adjudication’	Develop questionnaires to send to registrants and complainants and look at whether we can improve communication to those involved in the process	April – July 2012	Head of Adjudication and Head of Assurance and Development
Research on the field of ‘public protection’	To explore the field of ‘public protection’ in regulation and gather an evidence base to assist in informing future work and current processes	<ul style="list-style-type: none"> - Commission a research brief - Commission a regulatory case law history - Plan a seminar on the topic to be attended by relevant stakeholders 	April 2012- March 2013	Director of Fitness to Practise
Research any links between drink-drive/ drug related offences and health issues	As recommended by Committee in October 2012	Conduct research to look into whether there is a link between drink-drive/ drug related offences and health. Keep HPC’s current process under review	February 2012- October 2012	Head of Case Management, Head of Assurance and Devopment
Continue to conduct relevant audits of case files and review current processes in this area	To ensure there are adequate quality assurance processes in place	Continue to audit case files and look at whether any improvements or adjustments could be made	On-going	Head of Assurance and Development

Activity	Rationale	Description	Timescale	Role(s) responsible
Continue to review and respond to reports issued by CHRE and other relevant organisations	To ensure that the HPC learns from best practice and identifies and addresses any areas of weakness or risk	To continue to review and respond to reports issued by CHRE and other relevant organisations and to present findings to committee / council as appropriate	On-going	Director of Fitness to Practise, Head of Case Management, Head of Adjudication
On-going engagement with CQC and identification of cases suitable for referral	To ensure the HPC is making appropriate referrals to CQC	<ul style="list-style-type: none"> - How to identify suitable cases - Referral criteria - Referral form - Training for the team 	On-going	Head of Assurance and Development
Review of the FTP service level standards	To ensure that the FTP service level standards are accurate, up to date and fit for purpose	Review and update the standards as appropriate	May 2012	Head of Investigations
Departmental training	To ensure the Fitness to Practise team are adequately trained to carry out their roles and that they remain up to date with any operational and legislative changes	<ul style="list-style-type: none"> - To continue to provide refresher training to the case management and hearings team in the form of FTP workshops - Provide training to the fitness to practise team in preparation for the on-boarding of social workers - To continue to provide profession specific training 	On-going	All

Activity	Rationale	Description	Timescale	Role(s) responsible

Ensure Effective Management of Resources

Activity	Rationale	Description	Timescale	Role(s) responsible
Forecasting and budget management	Ensure resources are being used to their best effect	On-going forecasting of the number of cases and hearings that are expected and ensure effective controls are in place to manage the fitness to practise budget	On-going	Director of Fitness to Practise
Production of monthly management statistics	Ensure adequate resourcing and forecast	Monthly reporting on key FTP statistics to review statistics in line with forecast	On-going	All

THE HEALTH PROFESSIONS COUNCIL

RISK ASSESSMENT January 2012

Fitness to Practise

Ref	Category	Ref #	Description	Risk owner (primary person responsible for assessing and managing the ongoing risk)	Impact before mitigations January 2012	Likelihood before mitigations January 2012	Risk Score = Impact x Likelihood	Mitigation I	Mitigation II	Mitigation III	RISK score after Mitigation January 2012	RISK score after Mitigation July 2011
13	Fitness to Practise	13.1	Legal cost over-runs Links to 13.4, 15.2	FTP Director	4	4	16	Processes and strict arrangements with law firm suppliers	Professional Indemnity Insurance	Good process management for arranging hearings	Low	Low
		13.3	Tribunal exceptional costs, FTP, Registrations and CPD Appeals	FTP Director	5	5	25	Quality of operational processes	Quality of legal advice	Legal insurance covering exceptional High Court and Judicial Review costs	High	High
		13.4	Rapid increase in the number of tribunals and resultant legal costs Links to 13.1	FTP Director	3	3	9	Accurate and realistic budgeting	Resource planning	-	Low	Low
		13.5	Witness non-attendance	FTP Director	4	2	8	Vulnerable witness provisions in the legislation	Witness support programme	Witness summons	Low	Low
		13.6	Employee/Partner physical assault by Hearing attendees	FTP Director	5	5	25	Advice sought from the Police	Adequate facilities security	Periodic use of security contractors and other steps	Low	Low
		13.7	High Number of Registration Appeals	FTP Director & Director of Operations, Head of Registrations	3	5	15	Training and selection of Registration Assessors, so reasoned decisions are generated	Quality of operational processes	-	Low	Low
		13.8	Backlog of FTP cases	FTP Director	3	4	12	Annual reforecasting budget processes	Monthly management reporting	Quality of operational processes	Low	Low
		13.9	Excessive cases per Case Manager workload	FTP Director	3	4	12	Annual reforecasting budget processes	Monthly management reporting		Low	Low