

Council, 30 June 2015

Audit of final fitness to practise decisions 01/09/14 – 31/03/15

Executive summary and recommendations

### **Introduction**

The attached paper is a report of the audit of final fitness to practise hearing decisions, covering the period 1 September 2014 to 31 March 2015. The purpose of the audit is to review the quality of decisions reached by fitness to practise committee panels.

### **Decision**

The Council is invited to discuss and approve the paper. No decision is required.

### **Background information**

- Paper for Council, 4 December 2014, (enclosure one at [www.hcpc-uk.org/aboutus/committees/archive/index.asp?id=683](http://www.hcpc-uk.org/aboutus/committees/archive/index.asp?id=683))

### **Resource implications**

None at this time

### **Financial implications**

None at this time

### **Appendices**

- Audit form for final hearing decisions

### **Date of paper**

17 June 2015

## **Audit of final fitness to practise decisions 1 September 2014 – 31 March 2015**

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# 1. Introduction

## About the audit

- 1.1 This audit of final hearing decisions is based on the practice note 'Drafting fitness to practise decisions', which provides guidance to panels on the content that should be included in written decisions. Seven audits of final fitness to practise hearing decisions using this format have been carried out by the Policy and Standards Department between April 2010 and August 2014.
- 1.2 The eighth audit—documented in this paper—was carried out between 1 September 2014 and 31 March 2015, and applies the same process as the previous audits. The audit assesses Fitness to Practise panel adherence to the applicable law and to HCPC policy in particular areas. The focus of the audit is on monitoring whether panels have followed correct process and procedure including whether sufficient reasons have been given for decisions made. The audit flags areas where further policy development or consideration is required, but does not go as far as to question the decisions of the panel, as this would jeopardise the independence of panels, which operate at arm's length from the Council and the Executive.
- 1.3 The learning points from the audit will be fed back into operational policy development and into training and appraisal processes.

## About this document

- 1.4 This document summarises the results of the eighth audit. The document is divided into the following sections:
  - **Section two** explains the audit process, how the data from each decision has been handled and analysed, and provides the statistics for each question of the audit.
  - **Section three** provides a summary of emerging themes identified in the results and notes areas of change or improvement since the last audit.
  - **Section four** outlines the Fitness to Practise Department's response to the learning points from the audit and makes some recommendations for future action.
  - **Appendix one** contains the full set of questions each decision was audited against.

## 2. Analysing the decisions

### Method of recording and analysis

- 2.1 The Policy and Standards Department has been responsible for carrying out the audit. The audit process and analysis has been carried out by the department's two policy officers. The auditor's understanding of the HCPC fitness to practise procedures is based on the relevant practice notes and policy summaries.
- 2.2 This analysis includes final hearings, restoration hearings, cases of fraudulent entry to the register, full discontinuance hearings, and Article 30 review cases, reviews of conditions of practice orders and suspensions. Interim order cases and cases which were adjourned and did not reach a final decision during the audit period do not fall within the scope of the audit.

### Statistical analysis

- 2.3 A total of 210 decisions were analysed as part of the audit, of which 140 (66 per cent) were final hearing cases, and 70 (33 per cent) were Article 30 reviews. 198 (94 per cent) cases were considered by conduct and competence panels and twelve (6 per cent) cases were considered by health panels.
- 2.4 This section provides indicative statistics for the answers to the audit questions. The percentages calculated are rounded to the nearest whole number so may not always add to 100 per cent.
- 2.5 These statistics do not include individual case details but where necessary contextual explanation has been provided to clarify the way the audit question was interpreted by the auditor and the reason for particular results.

### Procedural issues

- 2.6 **If the registrant was not there and unrepresented, did the panel consider the issue of proceeding in absence?**

Yes	No	Not applicable
87 (41%)	0 (0%)	123 (59%)

During the audit period, there were 123 instances where the registrant was present at the hearing or represented. There were 87 hearings where the registrant did not attend or was not represented. In each of these cases, the panel considered appropriately proceeding in the absence and / or referred to the relevant practice note.

**2.7 Did any other procedural issues arise?**

<b>Yes</b>	<b>No</b>
142 (68%)	68 (32%)

Procedural issues noted by the auditor included amendments to, or withdrawals of allegations; applications for hearings to be heard in private; submissions of 'no case to answer'; admission and admissibility of further evidence; applications for adjournment; discontinuance; actual or perceived bias of panel members; and disposal via consent. Further discussion of emerging issues from this question is provided in section three.

**2.8 Was Legal Assessor advice disregarded?**

<b>Yes</b>	<b>No</b>	<b>Not recorded</b>
1 (0.5%)	176 (84%)	33 (16%)

The vast majority of cases considered during the audit period had due regard to the advice of the relevant legal assessor. There was one instance where a panel overruled the advice of the legal assessor which referred to the appropriateness of disclosing information contained in a confidentiality agreement at a public hearing. There were also a number of decisions which made no mention of any advice received from the legal assessor, which is discussed further in section three.

## 2.9 Was the three-stage test applied?

<b>Yes</b>	<b>No</b>	<b>Not applicable</b>
101 (48%)	1 (1%)	108 (51%)

The auditor interpreted this question to mean cases where the three-stage test was applied explicitly. The results show that there was only one case where the panel should have demonstrated more clearly the application of the three-stage test. This was a conviction and caution allegation. However, no summary of the three stage test was provided at the start of the decision document. Further discussion on this issue is provided in section three.

There are a number of decisions where the three-stage test does not need to be applied. These cases include review hearings and consent order cases where findings of facts, grounds and impairment have been proven either in a previous hearing or through consent. In practice some review and consent order decisions demonstrated that the three stage test had been applied but for the purposes of this audit have not been considered in this section.

The table below breaks down the number of cases where the three-stage test was not applicable by the type of decision hearing.

<b>Type of decision hearing</b>	<b>Number of cases (from 108)</b>
Review hearings	70
Consent orders	22
Other	16

The 'other' category refers to cases where alternative orders were made outside the range of usual sanctions. The 16 cases referred to above resulted in the hearings and / or allegations being discontinued.

## 2.10 Evidence by way of mitigation considered?

<b>Yes</b>	<b>No</b>
118 (56%)	92 (44%)

All of the decisions which recorded that mitigating evidence was presented demonstrated that it was appropriately considered by the panels. Evidence by way of mitigation was not considered in 92 (44%) cases.

These cases included the 22 consent order cases where the allegations had been accepted by the registrant and 14 discontinuance cases.<sup>1</sup> In the remaining 56 cases, the registrant in question had not engaged with the fitness to practise process and / or had not provided any mitigating evidence for the panel to consider, as far as the auditor could determine from the written records of these decisions.

However, in some instances the panel did consider some mitigating factors or circumstances which led to an allegation being raised against a registrant but not formal evidence per se, for example, by referring to testimonials or other relevant evidence provided by a registrant. In other decisions the allegation was not well founded or a half-time submission of no case to answer succeeded; and the panel subsequently did not need to consider mitigating evidence.

## Drafting

### 2.11 Is the decision written in clear and unambiguous terms (does it avoid jargon, technical, or esoteric language)?

Yes	No
204 (97%)	6 (3%)

The auditor interpreted this question to mean that the language used in the decision was appropriate to the context. In some decisions, there were occasional instances of unclear wording or terms. These included use of esoteric language or examples of technical and profession-specific language and terminology which required additional explanation for a more general audience.

### 2.12 Is it written in short sentences?

Yes	No
175 (83%)	35 (17%)

The auditor interpreted the phrase to mean that the sentence length was appropriate to the subject. The vast majority of decisions during the audit period demonstrated appropriate sentence length for the subjects being discussed. This means that though the sentences in some decisions were not necessarily short, they were appropriate to the concepts discussed in the decisions which required a more complex sentence structure. However, the auditor did conclude in a minority of instances that long sentences were frequently used and could have been broken down further to aid comprehension.

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<sup>1</sup> Two discontinuance cases considered mitigating evidence in more detail in the opinion of the auditor.

2.13 **Is it written for the target audience?**

Yes	No
210 (100%)	0 (0%)

The auditor interpreted the phrase ‘target audience’ to mean members of the public and profession. This question refers to the previous two questions about the language and construction of the written decision. All decisions in the review process were aimed appropriately at the target audience.

2.14 **Was the factual background of the case included in the decision?**

Yes	No
206 (98%)	4 (2%)

A small number of decisions did not include strong enough reference to the factual background of the case; these included one review hearing and two consent order hearings where the facts had been previously established. The remaining case referred to a discontinuance hearing where the background information provided in the decision was limited.

2.15 **If a review hearing, does the decision make reference to previous facts?**

Review hearing	Not a review hearing
70 (33%)	140 (66%)

Review hearings	
Reference to facts	No reference to facts
70 (100%)	0 (0%)

The auditor concluded that all of the review hearings made adequate reference to the previous facts established at final hearing. However, a minority of review hearings could have included a stronger reference to the previous facts established at a final hearing. In many instances this involved the omission of a separate background section in the decision. Although some of the content was covered in the wider decision document.

## 2.16 Is it a stand alone decision?

Yes	No
193 (92%)	17 (8%)

The vast majority of decisions made during the audit period could be reasonably considered as 'stand alone' decisions. This means the decision stands alone as a document of the hearing and decision-making process; and does not need additional explanatory material to be understood or to explain the outcomes or sanction imposed. There were 17 decisions that the auditor felt could not be considered stand alone.

In the majority of instances the cases in question were reviews or consent orders (including voluntary removal agreements). These decisions either did not adequately reference the allegation or did not provide adequate background information. Two final hearing decisions were not considered as 'stand alone' decisions by the auditor. One of these decisions made reference to the content of a HCPC bundle which was not evident in the decision and resulted in a three year caution order being imposed by the panel. The other decision resulted in the panel concluding that the allegation was not well founded, however, the registrant did submit some correction on the facts which were not accepted by the panel or reflected in the decision.

## 2.17 Are there adequate reasons for the decision?

Yes	No
210 (100%)	0 (0%)

In interpreting this question the auditor assessed whether the reasoning process shown in the decision was adequate given the conclusion the panel reached. In doing so the auditor did not seek to go behind the decision of the panel. All of the decisions for this audit period demonstrated adequate reasoning, and on the whole the panels provided appropriate and clear explanations for the decisions reached.

## 2.18 Conclusions on submissions (adjourned, facts, admissibility)?

Yes	No
210 (100%)	0 (0%)

All decisions made during the audit period made adequate conclusions on the information presented during the hearing.

**2.19 Does it clearly set out the finding of facts (including disputed and undisputed facts and if disputed, why the decision was made)?**

Yes	No
188 (90%)	22 (11%)

Most audit decisions set out the finding of facts. The 22 exceptions were all consent orders. Consent orders do not usually include findings of facts as they have been admitted in total by the registrant in question.

**2.20 What standards were referred to?**

95 (45%) of decisions referenced standards and the following table sets out which standards were referred to in this audit period. 39 decisions referred to more than one set of standards; therefore the total number of references is greater than the number of decisions in this category.

Standards referred to	Number of decisions where standards were referred to
Standards of conduct, performance, and ethics <sup>2</sup>	80
Standards of proficiency	41
Standards of another organisation (professional body etc)	18

Other standards or regulations referred to by panels were:

- General Social Care Council’s (GSCC) Code of Conduct or standards for social workers (14)
- HCPC’s returning to practice requirements (2)
- Band 5 standards for occupational therapists (1)
- HCPC’s confidentiality guidance for registrants (1)

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<sup>2</sup> A few decisions just referenced standards of professional conduct and ethics but not explicitly the HCPC’s standards of conduct, performance and ethics. However, where relevant these have been included in this figure.

**2.21 Did a panel impose a sanction which required reference to standards?**

<b>FTP panel imposed relevant sanction</b>	<b>FTP panel did not impose relevant sanction</b>
125 (60%)	85 (41%)

There are a number of decisions where the auditor concluded that it would not be necessary for the panel or decision to refer to a particular set of standards. These include: discontinuing an allegation; allegations which are not well founded; the panel not issuing another sanction or revoking an existing sanction at review stage.

**2.22 Did all decisions with a relevant sanction refer to the standards?**

<b>Yes</b>	<b>No</b>
62 (50%)	63 (50%)

There was an even split between the number of decisions with a relevant sanction which did and did not refer to the standards. These sanctions included caution, conditions, suspension and strike-off orders. The majority of consent orders (19) did not refer to any standards in the decision.

## Order

### 2.23 What was the panel's decision?

Sanction	Number of orders made (from 210)
Striking off	23 (11%)
Suspension	34 (16%)
Conditions	21 <sup>3</sup> (10%)
Caution	22 (11%)
Mediation	0 (0%)
Not well founded	47 (22%)
No further action	2 (1%)
Consent order	22 (11%)
Discontinuance in full	16 (8%)
Other	23 (11%)

Almost all of the consent orders audited in this period resulted in removal from the Register. The one remaining consent order imposed conditions of practice on the registrant in question.

The 'other' category refers to cases where alternative orders were made outside the range of the usual sanctions. These included hearing panels which either revoked an existing order or made no further order upon the expiry of the current order.

### 2.24 How long was the sanction imposed for?

This question applies only to suspension, condition of practice, and caution orders. This section sets out the lengths of these sanctions in this period, relevant to the type of sanction order made.

As the length of sanction that can be imposed varies between the different types of sanctions, the relevant sections of the indicative sanctions policy has been included alongside the relevant statistics.

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<sup>3</sup> This figure excludes one consent order which imposed conditions on a registrant.

## Suspension

The indicative sanctions policy states that “a suspension order must be for a specified period not exceeding one year. [...] Suspension for short periods of time (i.e less than a year) is a sanction which panels should generally not use...however, short term suspension may be appropriate where any lesser sanction would be unlikely to provide adequate public protection, undermine public confidence or be unlikely to have a suitable deterrent effect upon the registrant in question and the profession at large.”

Length of suspension	Number of orders (total 34)
3 months	2
6 months	10
8 months	2
9 months	2
12 months/1 year	18

There was an even split between the number of suspension orders imposed for a year or less than a year. The 18 cases where the panel imposed a period of suspension shorter than a year seems generally consistent with the guidance, as panels only imposed such orders where they had a specific reason to do so.

- The two three month suspension orders were made at review hearings and the reasons for the shorter suspension period were adequately addressed in the decisions. This included the panel providing guidance to the registrant on what a panel would require at the next review including relevant documentation and accompanying evidence.
- Seven of the six month suspension orders related to extending existing suspension orders. The decisions provided clear reasoning as to why this period of suspension was deemed appropriate and what the expectations would be for the registrant prior to a review of the order. One panel imposed an extension to an existing suspension order for an additional six months in order to allow a voluntary removal agreement (VRA) to be drawn up. Three of the six month suspension orders referred to final hearings. The panels provided clear rationale for the shorter suspension orders which included allowing additional time for the registrants in question to reflect on and fully address the underlying issues which led to their fitness to practise being impaired.
- The two eight and nine month suspension orders were considered appropriate by the panel. Three of these orders related to extending existing suspension orders. One nine month suspension order related to a final hearing. This period was considered

appropriate for the registrant to demonstrate further insight and to provide additional information. This included undertaking relevant training, providing written reflections and testimonials.

## Conditions

The indicative sanctions policy states that *“a conditions of practice order must be a specified period not exceeding three years. [...] Equally, in some cases it will be appropriate to impose a single condition for a relatively short period of time to address a specific concern...”*

<b>Length of conditions order</b>	<b>Number of orders (total 22)*</b>
6 months	2
9 months	1
12 months/1 year	14
15 months	1
18 months	2
2 years	1
3 years	1

\*This number includes one consent order in which a conditions of practice order was decided by the panel through consent.

The length of conditions of practice orders imposed seemed to be consistent with the guidance in the indicative sanctions policy. The longer conditions of practice orders were imposed on registrants with a greater need for support to reach full competence, and shorter periods imposed where there were fewer issues to be addressed. The nine month conditions order replaced an existing conditions order which were deemed problematic by the panel. Two of the 12 month conditions orders replaced existing suspension orders which allowed the registrants in question to continue to work towards returning to safe and effective practice.

## Caution

The indicative sanctions policy states that “a caution order must be for a specified period of between one year and five years...In order to ensure that a fair and consistent approach is adopted, panels should regard a period of three years as the ‘benchmark’ for a caution order. However, as panels must consider sanctions in ascending order, the starting point for a caution is one year and a panel should only impose a caution for a longer period if the facts of the case make it appropriate to do so.”

Length of caution order	Number of orders (total 22)
12 months/1 year	3
18 months	1
2 years	5
3 years	9
5 years	4

Panels seemed to be consistent in their application of the guidance in the indicative sanctions policy, with the average length of a caution order being approximately three years.

### 2.25 Does the order accord with sanction policy?

Applicable decisions	Not applicable
122 (58%)	88 (42%)

Applicable decisions	
Accord with policy	Not accord with policy
122 (100%)	0 (0%)

The auditor found that all applicable cases appropriately accorded with the indicative sanctions policy. Only orders that applied a sanction are included in this category, including consent orders and removal orders. This question does not include decisions where no sanctions were imposed, i.e. decisions which were not well founded / no case to answer, where the case was discontinued or the panel decided that no further action was necessary, or transferred the case to a different panel.

2.26 Does it state the operative date of the order?

Applicable decisions	Not applicable
135 (64%)	75 (36%)

Applicable decisions	
State operative date	No operative date
131 (97%)	4 (3%)

This category includes all sanction orders, restoration orders and orders of 'no further action' where in reviewing a sanction order the panel decided that the registrant's fitness to practise was no longer impaired.

There was some uncertainty over whether a voluntary removal agreement (VRA) required a separate order section to be drafted at the end of the decision document. However, for the purpose of this audit where the VRA is referred to in part of the decision and the panel signs it, the auditor understood that it would take immediate effect for purpose of this audit.

Four decisions did not record an operative date in the order and this usually consisted of the omission of 'from the date this order comes into effect' or 'with immediate effect'. One order referred to 'no further action' but the auditor concluded that the operative date could have been more explicit in the decision.

2.27 Does it state the end date of the order?

Applicable decisions	Not applicable
78 (37%)	132 (63%)

Applicable decisions	
State end date	No end date
78 (100%)	0 (0%)

All of the cases which imposed a sanction able to expire stated the end date of the order. This category includes suspension, conditions of practice and caution orders. Not applicable to this section were decisions that did not impose a sanction order, discontinuance orders,

and consent orders for removal from the Register and orders to strike off which do not have end dates.

## 2.28 Conditions orders

Conditions were imposed in 22 cases, this number includes one consent order in which a conditions of practice order was decided by a panel through consent. The following tables analyse the conditions set and whether they accord with the guidance in the indicative sanctions policy.

### Are they realistic (is the registrant able to comply)?

Yes	No
22 (100%)	0 (0%)

All of the conditions set during this audit period were sufficiently realistic.

### Are they verifiable (are dates on which information is due specific and clear)?

Yes	No
22 (100%)	0 (0%)

The auditor found that all conditions imposed were verifiable and provided specific and clear information about what evidence would be required to meet the conditions and when it would be required.

### Are they imposed on anyone other than the registrant?

Yes	No
0 (0%)	22 (100%)

The auditor interpreted this question to refer to decisions where persons other than the registrant were directly required by the panel to carry out an action to enable the registrant to meet conditions. Where the registrant was responsible for organising other people to carry out certain actions, the auditor understood that the conditions were only imposed on the registrant which could include formulating a personal development plan in conjunction with another professional.

Based on this interpretation, all of the conditions set in this period were imposed only on the registrants in question. Though many conditions of practice orders imposed a supervisory requirement they did not refer to supervision by any named person and stipulated that the registrant needed to organise these arrangements.

### 3. Emerging themes

This section discusses the emerging themes from specific audit questions, and where necessary provides more detailed results to reveal trends and potential areas for further consideration.

#### Procedural issues

- 3.1 There was a wide range of procedural issues considered by panels during the period of this audit and the following table sets out the number of instances different types of procedural issues occurred. Some cases considered a number of different procedural issues, so the total number of issues raised does not directly correspond to the total number of hearings (142) where procedural issues were considered.

<b>Procedural issues</b>	<b>Number of instances</b>
Request for hearing to be held in private	42
Amendments, corrections, withdrawal of allegations	67
Application for full or partial discontinuance of allegations <sup>4</sup>	21
Application of no case to answer	7
Application for adjournment of hearing	7
Joinder <sup>5</sup>	7
Other	21

- 3.2 Most procedural issues were relatively straightforward, such as minor amendments to allegations and applications for hearings to be heard in private. For the purpose of this audit, the auditor has not referred to the following procedural issues in the above table: service of good notice; finding FTP is impaired; consent orders (which did not refer to discontinuing the allegation); indicative sanctions policy; and conviction and caution allegations.

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<sup>4</sup> The auditor has only recorded discontinuance as a procedural issue when it is considered separately or referred to in a relevant consent order.

<sup>5</sup> Frequently it was not explicit in some decisions whether a joinder actually occurred as a procedural issue. In other instances it was very clear to the auditor that the allegations had been tied to a number of registrants.

The 'other' category relates to cases where more unusual procedural issues occurred, as summarised below.

- In one case the panel agreed to the redaction of some content in a witness statement.
- In four cases the panel considered the possibility of actual or perceived bias by a panel member due to knowledge of a previous hearing or connection with an organisation which employed the registrant. In two instances the panel needed to adjourn as a result of this procedural issue. In one case a panel member needed to be replaced due to their involvement in a previous hearing.
- In seven cases panels considered the admissibility of particular pieces of evidence (on occasion this consideration was more implicit than explicit). This includes instances where an application was made that some evidence was inadmissible, and cases where new evidence was put forward and the panel considered whether it should be included.
- In nine cases the panels considered special measures in relation to hearing evidence or representation at a hearing (on occasion this consideration was more implicit than explicit). Five cases related to hearing evidence or participating in the hearing via telephone; three cases related to hearing evidence or participating in the hearing via video link; and one case referred to the summoning of a vulnerable witness who had been reluctant to attend the hearing.

3.3 Previous audits have referred to some administrative errors on the part of the HCPC which included evidence missing from bundles, incorrect information given to panels and not enough notice being given to a registrant. This audit found reference to some administrative errors on the part of the HCPC at a final hearing when the decision was later being reviewed by a panel.

3.4 The auditor observed that the majority of procedural issues were recorded as part of preliminary matters at the start of the decision. However, in some instances the procedural issues were recorded later in the decision. Similar to the recommendation made in earlier audits, it would be helpful for future audit purposes if as many procedural issues as possible were recorded under preliminary matters at the start of the decision.

## **Legal advice**

3.5 The majority of decisions stated that the panel accepted the advice of the legal assessor, and often provided some detail as to the advice they received. However, 33 decisions in this audit period did not include any reference to the legal assessor.

3.6 Previous audits have referred to the difficulty in assessing decisions in relation to legal advice, as a number of decisions made no reference to the legal assessor, or any advice the panel may have received from them.

- 3.7 The auditor has continued to note some improvement in this area, as 16 per cent of decisions from this audit made no mention of the legal assessor, or any advice they may have received from them. This marks an improvement of 4 per cent from the previous audit, but further improvement is required.

### **Considering sanctions in ascending order**

- 3.8 The auditor has noticed that not all panels are considering the full range of sanctions in ascending order (11 cases). The most frequent omissions are for mediation and no further action. Although the auditor acknowledges that mediation is not considered a formal sanction.

### **Conviction and caution allegations**

- 3.9 The auditor reviewed seven decisions which referred to a panel handling conviction and caution allegations. There is a separate practice note for handling such allegations by panels.
- 3.10 However, some decisions did not provide a summary of the three stage test at the start of the decision. It was evident that the panels in question considered the facts and grounds (as a result of a caution or conviction being received by a registrant) at a single stage; before moving on to consider impairment separately. However, it would be beneficial if all such decisions in future provided a summary of the three stage test at the start of the document. This would make the application of the three stage test more obvious to a more general audience.

### **Drafting**

- 3.11 The drafting of decisions across the audit period was often of high quality and the majority of decisions were appropriately structured and written. The following provides further comment on drafting issues.

#### **3.12 Use of language**

Most decisions used simple language appropriate to the context. Some decisions included allegations which referred to technical skill or complex concepts, and in such decisions the auditor judged that it was appropriate for the issues to be discussed using the appropriate technical terms which were generally explained as necessary.

However, in a minority of decisions (six) the auditor concluded that some technical terms were used more frequently which could have been further explained to a more general audience.

### 3.13 Proof-reading and editing

The standard of proof reading and editing of decisions being released as final versions has been noted in previous audit reports. The last audit identified 52% of decisions with minor spelling, grammar, and formatting errors evident in the final decisions for that period.

However, this audit found that 63% of decisions (132) in this period contained some minor drafting errors. This marks an increase of 11% from the previous audit, however, a wider sample was used on this occasion. The majority of errors identified in this period related to inconsistent formatting, with irregular paragraph spacing, character spacing and page numbering among the most prominent. The following provides a brief overview of some common drafting issues:

- one decision continually referred to the HPC as opposed to HCPC;
- one decision did not contain the HCPC logo on the cover sheet;
- three decisions contained unusual language, for example, 'keeping on the straight and narrow', 'time was marching on' and reference to 'driving a mechanically propelled vehicle';
- one decision contained an unusual change in narrative at impairment stage with the use of more direct statements;
- two decisions omitted identifying the type of hearing ie review or final hearing on the cover sheet;
- eleven decisions could have more clearly specified the public and personal component of finding that a registrant's fitness to practise was impaired;
- eleven decisions did not specify the profession of the registrant in question on the decision cover sheet;
- twelve decisions had minor grammatical mistakes evident which included a mixing of tenses, typos, minor omissions and repetition;
- 31 decisions did not contain either page or paragraph numbering; and
- 39 decisions had inconsistent formatting including irregular paragraph or sentence spacing, frequent use of long paragraphs, or the paragraph headings were located on a separate page to the accompanying content.

## 4. Learning points and recommendations

4.1 The Fitness to Practise Department made the following comments in relation to the report:

- The report highlights the wide range of procedural issues considered by panels during the period of the audit, the majority of which are routine preliminary issues that need to be resolved by panels in advance of a hearing. In order to ensure that these issues do not significantly delay the start of proceedings, the adjudication team has worked hard over the past year to deal with appropriate procedural issues by way of an electronic preliminary meeting with the Panel Chair and Legal Assessor in advance of the hearing. This is an effective tool to assist with the expeditious handling of cases that are scheduled for a final hearing. In addition, as part of our Fitness to Practise work plan for 2015-16, we are continuing to review ways in which we can deal with preliminary issues most effectively.
- We have continued to pilot the use of pre-hearing teleconferences which has now been extended to 12 months in order to ensure that we have a sufficient sample of cases to review at its conclusion. It is hoped that the pilot will help to facilitate the smooth running of final hearings by identifying preliminary issues that can be dealt with in advance of the final hearing.
- Panels are aware of the need to include reference to the advice of the legal assessor in all panel decisions and it is a point that is covered at all new panel member training. However, we will ensure that panels are reminded about this through our quarterly Fitness to Practise newsletter and regular refresher training.
- The audit has highlighted a decline in the quality of the proof reading and editing of decisions prior to publication. In order to address this, we will continue to provide further training and guidance to the Hearings Officers. Last year, all relevant team members took part in 'proof reading' training and this will be continued for all new members of the team. In addition, an FTP 'house style' document has been created to ensure a consistent approach to the formatting of decisions. We will also review whether there is a link between the length and complexity of hearings and the quality of decisions as this may impact on the frequency of minor typographical and formatting errors. We must always work to balance the need to conclude hearings; and notify the relevant parties of the panel's decision in good time, with ensuring that those decisions have had adequate and proportionate post hearing checks.
- The Fitness to Practise Department is pleased that the audit has continued to highlight that overall, panel decisions adhere to the applicable law and HCPC policy. It is key to note that all of the decisions audited gave adequate reasons for the decision made,

as the failure of panels to provide adequate reasons for their decisions can leave the HCPC open to appeal challenge.

## 5. Appendix

### Audit Form Final/Review Hearing Decisions

<b>Case details</b>	
<b>Case name</b>	
<b>Case reference</b>	FTP
<b>Panel type</b>	Conduct and Competence/ Health/Investigating/Review
<b>Hearing date</b>	
<b>Legal Assessor</b>	
<b>Panel Chair</b>	

#### 1. Procedural issues

If the registrant was not there and unrepresented, did panel consider issue of proceeding in absence?	Yes/No/Registrant or representative attended
Did any other procedural issues arise?	Yes/No/Comments
Was Legal Assessor advice disregarded?	Yes/No/Comments
Was the three stage test applied?	Yes/No/Comments
Evidence by way of mitigation considered	

#### 2. Drafting

Is decision written in clear and unambiguous terms (does it avoid jargon, technical, esoteric language)?	Yes/No/Comments
Is it written in short sentences?	Yes/No/Comments
Is it written of target audience?	Yes/No/Comments
Was the factual background of the case included in the decision?	Yes/No/Comments
If review hearing, does decision make reference to previous facts?	Yes/No/Comments/Not review hearing
Is it a stand alone decision?	Yes/No/Comments

Are there adequate reasons for the decision?	Yes/No/Comments
Conclusions on submissions (adjudged, facts, admissibility)	Yes/No/Comments
Does it clearly set out the finding of facts (including disputed and undisputed facts and if disputed, why decision was made)	Yes/No/Comments

### 3. Order

What was the panel's decision?	Not well founded/ no further action/ mediation/ caution/ conditions/ suspension/ striking off
How long was the sanction imposed for?	
Does the order accord with sanction policy?	Yes/No/Comments
Does it state the operative date of the order?	Yes/No/Comments
Does it state the end date of the order?	Yes/No/Comments
If conditions imposed:	
- are they realistic (is the registrant able to comply)?	Yes/No/Comments
- are they verifiable (are dates on which information is due specific and clear)?	Yes/No/Comments
- are they imposed on anyone other than the registrant?	Yes/No/Comments

### 4. Policy issues

Are there any emerging policy issues?
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**Audited by:**

**Date:**