

**Agenda Item 9 (i)**

**Enclosure 5**

**Health and Care Professions Council  
04 July 2018**

**Tribunal Advisory Committee annual report**

**For discussion**

**From Marcia Saunders, Chair of the Tribunal  
Advisory Committee**

Council, 4 July 2018

## Tribunal Advisory Committee – Annual Report to Council

### Background

Following completion of a major project and Council approval in July 2016, the Health and Care Professions Tribunal Service (HCPTS) was launched in Spring 2017 with new operational and governance arrangements underpinning it.

The HCPTS was established to ensure a high degree of separation between the investigation and adjudication of fitness to practise cases, enhancing the independence of decision-making in all fitness to practise tribunals.

To support this, the Tribunal Advisory Committee (TAC) was created on a non-statutory basis and its role is to provide advice to Council, in line with its terms of reference which are set out below:

The Tribunal Advisory Committee shall:

1. advise the Council on the qualities, abilities and competences required of:
  - 1.1 Panel Members of the Tribunal (Tribunal Panellists)
  - 1.2 Panel Chairs of the Tribunal (Panel Chairs); and
  - 1.3 Legal Assessors;
2. advise the Council on arrangements for the merit-based selection, by fair and open competition, of:
  - 2.1 Tribunal Panellists;
  - 2.2 Panel Chairs; and
  - 2.3 Legal Assessors;
3. advise the Council on arrangements for the training and assessment of:
  - 3.1 Tribunal Panellists;
  - 3.2 Panel Chairs; and
  - 3.3 Legal Assessors;
4. subject to any policy established by the Council, provide guidance to the Tribunal on matters of practice and procedure, in order to assist the Tribunal to conduct proceedings fairly, proportionately, efficiently and effectively.

Members of the TAC were appointed through open competition on the basis of competences and relevant experience. In line with the Council's standing orders for committees, three serving panel chair members and three independent members were appointed. Together they bring wide experience and knowledge of a considerable range of health and professional, including regulatory bodies and issues.

The Chair of the TAC, recommended by TAC members and approved by Council, is one of the independent members. Each committee member is eligible to hold office for a period of two terms of up to four years each. TAC members were provided with induction training prior to their first meeting. TAC meetings are also attended by relevant HCPC/HCPTS employees.

The current members of TAC are set out below:

Marcia Saunders – Independent member (Chair of TAC)  
Alan Kershaw - Independent member  
Sheila Hollingworth – Independent member  
Graham Aitken – Panel Chair member  
Catherine Boyd – Panel Chair member  
Philip Geering – Panel Chair member

Claire Amor (Governance Manager) – Secretary to Committee

TAC reports directly to the Council and is subject to Council's strategic decisions as well as its high level policy in respect of fitness to practise. The TAC is subject to the HCPC's standing orders for all committees and members are remunerated by way of a daily fee, which is agreed by the Council for all committees.

To date, there have been five meetings of the TAC and this is the first annual report to Council. It sets out the committee's work and achievements during its first year of operation, between May 2017 and May 2018.

### **Strategic Objectives**

It is important to highlight that the TAC's approach to its work has been informed from the outset by its role in assisting the HCPC Council to assure itself of the separation of the investigation and adjudication of fitness to practise cases, and of the independence of decision-making in all fitness to practise tribunals.

The TAC established its strategic objectives to align with HCPC Council priorities and to ensure that it would meet its terms of reference and work in a focused manner.

### **Partner Competences and Selection**

In relation to the recruitment arrangements for Panel Members, Panel Chairs and Legal Assessors, although the HCPC had done substantial work in this area in the

past, the pre-existing competency framework for HCPC panellists had been in place for some time.

The TAC advised on best practice in this area and made recommendations to refine the competency framework for all HCPC Panel Members, Panel Chairs and Legal Assessors in order to ensure that it remained fit for purpose, and help support the recruitment of a competent and diverse pool of partners. The revised version was agreed by Council in December 2017. The new framework was rolled out in January 2018 and is in use across all of the Fitness to Practise Partner roles.

TAC gave considerable focus to the importance of harmonising the recruitment and assessment process for legal assessors with those already in development for other Partners, and on adapting the competency framework accordingly.

When, in April 2018, the HCPTS recruited 17 new Legal Assessors, the revised recruitment process used the new competency framework to produce a detailed guidance document for applicants. The campaign was particularly successful, receiving 229 applications. Shortlisting and assessment of candidates was quality assured by the Partners Team and an assessment centre in the form of a case study in addition to the interview was introduced as part of the selection process.

Feedback from an operational perspective was that the process of shortlisting and interviewing was significantly improved as a result of the new competency framework.

In addition to this, work has begun on a new appointment and selection policy for Partners (to include all FTP partner roles). This was initially considered in February 2018 and further work on this is continuing with the input and advice of TAC.

It will be the ongoing responsibility of TAC to ensure that Partner recruitment for all FTP partner roles is undertaken at arm's length from the Council.

## **Training and Assessment**

The HCPC/HCPTS has an annual programme of training in place for all Panel Members, Panel Chairs and Legal Assessors. The ongoing training is overseen by the HCPC's Partners department and HCPTS and undergoes constant review and development.

Since its establishment the TAC has been able to provide valuable insight which has helped to contribute to that development process.

As with recruitment, the TAC is responsible for advising the Council on the training and assessment arrangements for all FTP Partner roles.

TAC has offered useful insight and contributed to the development of the self-assessment process for FTP partner agreement renewal as well as the Partner appraisal system for FTP Partner roles.

With the support of the TAC and underpinned by the new competency framework, a revised and more streamlined process was piloted in December 2018, and after receiving overwhelming positive feedback has now been fully rolled out.

In terms of future work in this area, TAC will assist later in the year with the introduction of performance assessments/ reviews for all Legal Assessors. This will bring them in line with all other FTP Partner roles.

### **Panel Feedback**

This is an area of work that TAC, in conjunction with the Executive, intends to develop further. Although feedback mechanisms were already in place, TAC provided detailed advice about the exploration of the use of a survey tool in order to identify whether more specific feedback could be obtained from Panel Chairs. This enabled a road test of the mechanism with a view to potentially rolling out more widely or setting the requirements for a more bespoke approach to surveying participants at an appropriate time, perhaps within 2018/19.

Aligned to this is the potential for the use of new or expanded feedback models for Panel Members, Panel Chairs and Legal Assessors which have been discussed initially by TAC. The intention is to move nearer to a 360 feedback model in the future. TAC discussed how such a model could help identify whether partners were continuing to meet the competences required for the role, identify development needs and support the self-assessment process for those partners who were eligible for a further term of appointment.

TAC will continue to provide detailed input into the nature of feedback required and how it is collated and subsequently used to improve and enhance the existing processes in place for all hearing participants. This will form part of the ongoing agenda for TAC.

### **Guidance on Practice and Procedure**

In line with TAC's terms of reference and upon its establishment, Council delegated the review and approval of all practice notes to TAC. These documents provide detailed guidance to all Panels, hearing participants and other interested parties on practice and procedure.

In March 2017, in preparation for the transition to the Health and Care Professions Tribunal Service (HCPTS) all 32 practice notes were reviewed, and it was agreed that from May 2017 a yearly cycle of review would begin. Only those practice notes highlighted as requiring amendment would be put before the TAC for approval. However, the TAC could review other Practice Notes if a specific need to do so was identified by TAC members.

Since its initial meeting in May 2017, the following four Practice Notes have been referred to, amended and agreed by TAC:

- Restoration to the Register – November 2017
- Discontinuance of Proceedings – February 2018
- Disposal of cases by Consent – February 2018
- Review of Sanction Orders – May 2018

In addition to the practice notes, in September 2017 the members of TAC contributed in setting the scope of the project to review the Indicative Sanctions Policy.

In May 2018, the TAC considered the Professional Standards Authority's "Lessons Learned" review into the NMC's handling of concerns about midwives' fitness to practise at the Furness General Hospital. The TAC intend to collaborate further with HCPC and the Executive to ensure that learning from this and other PSA reviews is embedded within panel competences, training and assessment and captured appropriately in Practice Notes.

### **Future strategy/ future work**

The TAC intends to build on its work and collaborate with the Executive with the aim of providing a framework for development work but also to provide assurance in the following areas:

**Competence Framework:** Appraisals, Feedback, Complaints, Recruitment and Learning.

**Recruitment and guidance:** Information for applicants, Assessment Centre, Quality Assurance.

**Learning:** Review of current training delivery, use of e-learning, case studies and practice skills, learning needs.

**Feedback and assessment:** Peer feedback, self-assessment.

**Future developments:** survey tools for feedback, Partner portal, Peer assessment for Panel Chairs, 360 degree feedback options, mentoring scheme, shadowing.

**Equality and Diversity:** promoting and supporting HCPC in ensuring adequate monitoring of panellist recruitment and panel outcomes is in place.

The TAC will continue to engage with the Executive regarding responses to strategic reviews relevant to health regulation. The TAC is developing a three year strategy to align with the Council's strategic priorities.