

Appendix 1

**Solicitors and
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10 November 2005

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Dear Marc

Publication of Visitors' Reports

You asked for my advice on HPC's obligations in relation to the publication of Visitors' reports.

Article 16(12) of the Health Professions Order 2001 ('the Order') requires the Council to "publish such reports together with, on the request of the institution concerned, the response of that institution to the report". You will note that, unlike most other matters in Part IV of the Order, the obligation to publish rests with the Council and not the Education and Training Committee.

Clearly, the purpose behind the legislation is to ensure that the approval of programmes by HPC is conducted in an open and transparent manner; by requiring Visitors' reports to be placed in the public domain and, as such reports may be critical of the institution concerned, by providing that institution with a right of reply which includes the right to insist that its response is published with the original report.

Whilst the Order does not specify when reports and responses are to be published, the common law principle of procedural fairness dictates that the Council should not put Visitors' reports into the public domain until the institution concerned has had the opportunity to respond to that report and to decide whether it wants its response to be published. Therefore, I would suggest that reports and, where appropriate, responses are only published once the approval process has concluded.

As you will be aware, Article 18 of the Order provides that, if after taking account of a Visitors' report and any response to it, the Education and Training Committee is of the opinion that approval should be refused or withdrawn, it must not proceed further without first setting out the reasons for that opinion and providing the institution with an opportunity to make observations on those reasons.

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Unlike Article 16(12) in relation to Visitors' reports and responses, there is no provision in the Order which requires the Council to publish the Committee's reasons or any observations which are received in response but, given that approvals decisions would be taken at a public meeting of the Committee, that information will be in the minutes of and documents for the meeting and, therefore, will be published in any event.

In relation to their initial representations, institutions are asked whether they want those representations to be published and, in reaching that decision, can obviously ensure that representations are drafted in an appropriate form which takes account of the fact that they will be published. In relation to observations, it may not be apparent that they will be published and consequently, as a matter of good practice, HPC should inform institutions that their observations will become part of the public documents of the Committee so that they may avoid any potential embarrassment by drafting those observations in an appropriate form for a document which will enter the public domain.

I trust this is helpful.

Yours sincerely

Jonathan Bracken

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