

Education and Training Committee – 2 December 2008

Health and Character Policy

Executive summary and Recommendation

Introduction

At its meeting on the 16 June 2005, the Education and Training Committee approved the policy and procedure by which health and character declarations on admission, readmission, renewal and self referrals should be considered. In such instances a Registration Panel is asked to make a recommendation as to whether the matter declared is relevant to the person's registration, or in the case of self referrals, whether the matter should be referred to the fitness to practice process.

In March 2008, the Committee considered a review of the Health and Character process and made a number of recommendations. One of which was to produce a list of issues that the HPC considers do not need to be considered by a Registration Panel.

From analysis of cases undertaken as part of the review in early 2008, the executive has identified types of cases where no panel has recommended that a person should not be registered or referred to the fitness to practice process, or cases where the recommendation has been overturned on appeal. Following the consideration of the report by the Committee, the Health and Character Declaration Policy has been revised to incorporate guidance that such cases do not need to be considered by a Registration Panel. To allow flexibility and to ensure that cases are dealt with in the most appropriate way, the Director of Fitness to Practise may still refer any matter to a Registration Panel where it is considered appropriate to do so, even if it falls within one of the stated categories.

Decision

The Committee is asked to discuss the attached paper and approve the policy.

Background information

Health and character review – March 2008

Date	Ver.	Dept/Cmte	Doc Type	Title	Status	Int. Aud.
2008-03-12	a	F2P	AGD	Education and Training - Health and Character report	Final DD: None	Public RD: None

Resource implications

There may be a reduction in the cases that are required to be considered by a Registration Panel.

Financial implications

There may be a reduction in the cases that are required to be considered by a Registration Panel.

Appendices

Health and Character Declaration Policy

Date of paper

17 November 2008

HEALTH AND CHARACTER DECLARATIONS POLICY

INTRODUCTION

This paper sets out the policy and procedure that HPC should adopt when it receives:

- health and character declarations on application for admission or re-admission to the register
- health and character declarations on renewal of registration
- self referrals of health or character issues by registrants

The Council's Standards of conduct, performance and ethics sets out HPC's expectations of registrants. It is also expected that anyone who wishes to be admitted to the HPC register will have kept to those standards. They are the basis on which HPC will assess complaints against a health professional and they are also the standards that will be used to help decide whether to allow a prospective registrant onto the register.

REGISTRATION PANELS

A Registration Panel comprises of three members, one of which is a registrant from the same profession as the person concerned, and one a lay partner. If necessary, a doctor. The Registration Panel provides a recommendation on the course of action that should be taken in each case.

When considering character declarations, Panels should take into consideration;

- the nature and seriousness of the offence or misconduct;
- when the incident occurred; and
- the applicant's/registrant's character and conduct since the incident.

When considering health declarations, Panels should take into account whether the applicant/registrant has;

- sought medical or other support as appropriate;
- made reasonable adjustments to their working arrangements or agreed them with their employer; and

- restricted their scope of practice to those areas where they are confident that they meet the Standards of Proficiency.

In July 2008 the requirement for registrants to notify HPC of health issues was removed from the standards of conduct, performance and ethics. Health issues affecting an individual's fitness to practise still need to be declared on application or re-admission to the register and on renewal.

Registration Panels meet regularly to ensure all necessary professions are accommodated and that cases are dealt with expeditiously.

RE-ADMISSION/ADMISSION

Applicants applying for registration with HPC must satisfy the Education and Training Committee as to their good health and character. Rule 5 of The Health Professions Council (Registration and Fees) Rules Order of Council 2003 provides:

"5. – (1) For the purpose of satisfying itself as to the good character of the applicant, the Committee shall have regard to-

- (a) the character reference provided under rule 4(2) or (3);
- (b) any conviction or caution which the applicant has received in the United Kingdom for a criminal offence or a conviction received elsewhere for an offence, which if committed in England and Wales, would constitute a criminal offence;
- (c) any determination by a body responsible for regulating or licensing a health or social care profession to the effect that the applicant's fitness to practise is impaired; and
- (d) any other matters which, in the opinion of the Committee, appear to be relevant to the issue,

and for this purpose the Committee may seek information additional to that provided with the application for registration from any person or source as it considers appropriate.

- (2) For the purpose of being satisfied as to the physical or mental health of the applicant, the Committee shall have regard to -
 - (a) the health reference or other evidence provided under rule 4(2)(b), (4) or (5); and
 - (b) such other matters as appears to it to be relevant,

and for this purpose the Committee may seek information additional to that provided with the application for registration from the applicant and from any other person or source as it considers appropriate and may require the

applicant to be examined or further examined by a doctor nominated by the Committee.”

If an applicant declares a health or character issue, further inquiries would be made (in line with Rule 5 of the Registration and Fees rules) and the applicant would be advised that their declaration, and any further representations that they may wish to make, will be considered by a Registration Panel. The applicant would be given 14 days in which to make any representations.

The recommendation of the Registration Panel in such cases is to determine whether the declaration prevents the individual from being admitted or readmitted to the register. If that is found to be the case, the applicant would have the right to make a registration appeal.

RENEWAL

Every two years, registrants are required to renew their registration. This involves making a declaration that:

- they continue to meet the HPC’s standards of proficiency for the safe and effective practice of their profession; and
- there have been no changes to their health or relating to their good character which they have not advised HPC about and which would affect their safe and effective practice of their profession.

Where a declaration is made on renewal, the case is considered by a Registration Panel in the same way as a declaration on admission/readmission to the register. The recommendation that the Panel is asked to make is whether the registrant should be allowed to renew their registration. If the Panel does not allow renewal of registration, there is a right of appeal to the Council against that decision.

SELF REFERRALS

If a registrant makes a declaration in line with paragraph 4 of the Standards of Conduct, Performance and Ethics this should be provided in writing. If HPC receives the information from another source prior to or at or around the same time as receiving a written declaration from the registrant, HPC will proceed with the case through the fitness to practise process.

The registrant will be advised that this information, and any other observations the registrant wishes to make, will be presented to a Registration Panel. The role of the Panel is to recommend whether the issue is of such a nature that its consideration via the fitness to practise process is required. In cases where registrants self-refer, HPC will make it clear that, in the first instance, the matter will be assessed by a Registration Panel for guidance. The registrant will be also warned that if, on the basis of that guidance the Council considers that the registrant’s fitness to practise is brought into question, the matter may be referred to the Investigating Committee at which time the registrant will have a further opportunity to comment. At this point the matter becomes an

Article 22(6) allegation and the procedures under Part V of the Health Professions Order 2001 apply.

If the matter declared is of a very serious nature, typically a case in which an interim order would be sought, the case may be referred immediately to the Investigating Committee and dealt with as a fitness to practise issue.

CASES THAT DO NOT REQUIRE A REGISTRATION PANEL RECOMMENDATION

The initial procedure in all cases was to ask a Registration Panel to make a recommendation in every case where a declaration had been made. By establishing and following a clear process, the HPC has been able to identify the types of issues that should not affect registration, admission or renewal. Having reviewed the cases that have been considered by Registration Panels, the Education and Training Committee recommends that the following types of cases should not be considered by a Registration Panel:

- juvenile convictions which were received more than 5 years prior to an application for registration except where:
 - the offence is serious;
 - the offence would lead to barring under one of the UK Vetting and Barring Schemes; or
 - there are multiple offences.

- conviction solely for driving (or being in charge of) a motor vehicle having consumed alcohol in excess of the prescribed limit where:
 - there are no aggravating circumstances connected with the offence (including but not limited to failure to stop or only doing so following a police pursuit, failure to provide a specimen, obstructing police, etc.);
 - the offence did not occur in the course of professional duties, en route to or directly from such duties or when subject to any on call or standby arrangements; and
 - where the penalty imposed does not exceed disqualification from driving for 12 months (with or without a fine).

- conviction solely for a:
 - parking contravention;
 - fixed penalty motoring offence; or
 - fixed penalty offence under a public transport penalty fare scheme.

All convictions and cautions, (and other character issues) must be declared to the HPC, including those listed above.

The Director of Fitness to Practise may still refer any matter to a Registration Panel where it is considered appropriate to do so, even if it falls within one of the above categories.

December 2008