

Education and Training Committee, 7 September 2017

Review of Health and Character Declarations Policy

Executive Summary and recommendations

Introduction

This report is a biennial review of the Health and Character Declarations made by applicants for registration or readmission on to the register or by registrants on renewal of registration. The review relates to the period April 2015 to March 2017.

In March 2016 the Education and Training Committee approved changes to the Health and Character Declarations policy, which allowed for a greater number of declarations to be signed off administratively within the Fitness to Practise department. Under the new policy the criteria for cases that could be resolved via sign-off by a manager was extended to include common types of declarations that were previously approved by Registration Panels. The changes to the policy went live in July 2016 and this report therefore also provides an analysis of the impact of the new policy on the operational management and outcomes of declaration cases.

Areas from the report to highlight are as follows:

- The number of Health and Character Declarations received during the period was 18% lower than in the previous two year review period.
- Declarations relating to a caution or conviction continue to be the largest category of case at 65% of the declarations received.
- The main reason for a Registration Panel to reject an application for admission on to the register was the applicant declaring serious or multiple criminal offences.
- Following the introduction of the revised policy 82% of declaration cases received were signed off in the department, compared to 54% previously.
- The majority of cases signed off from July 2016 related to matters that had already been considered by the education provider.
- The proportion of cases where registration was rejected by a panel has more than doubled under the revised policy; 13% of cases considered by a panel were rejected from July 2016 compared to 6% prior to July 2016.

Decision

The Committee is requested to note the contents of the review and confirm whether or not they would like a further review or update on the operation of the policy ahead of the next planned review in 2019.

Resource implications

There are no additional resource implications

Financial implications

None

Appendices

None

Date of paper

23 August 2017

Review of Health and Character Declarations:
April 2015 – March 2017

1. Introduction

- 1.1 This report is a biennial review of the Health and Character Declaration (DEC) cases managed by the Fitness to Practise department in the two year period. This report breaks down the number of applications reviewed by:
- profession;
 - application type – (*admission, renewal and readmission*);
 - declaration made (*health, caution/conviction and character*); and
 - decision made.
- 1.2 In March 2016 the Education and Training Committee approved changes to the Health and Character Declarations Policy, which allowed for a greater number of declarations to be signed off administratively within the Fitness to Practise department. Prior to the change, 95% of applicants whose declarations were referred to a Registration Panel for consideration were approved for registration. The changes to the policy broadened the scope of the criteria of the types of cases that could be resolved via administrative sign-off to include those common types of declarations that were frequently approved by panels. The aim was to ensure that panels continued to consider those matters where a declaration had a clear bearing on an applicant's ability to practise safely and effectively, whilst ensuring that other declarations could be processed more efficiently, thereby reducing delays for those applicants whose declarations were likely to be approved.
- 1.3 The changes to the policy went live on 1 July 2016, and this review will therefore also provide a comparative analysis of the management of DEC cases and their outcomes before and after the revised policy came into effect. To allow for ease of comparison, each of the data tables below gives the overall numbers for the two year review period as well as a breakdown of the relevant numbers pre and post the revised policy; that is from April 2015 – June 2016 (pre-changes) and from July 2016 – March 2017 (post changes). The discussion of the impact of the changes to the sign-off criteria can be found at section 3.
- 1.4 During 2016 the Fitness to Practise directorate was realigned into five functional areas. One outcome of the realignment is that a new team of Case Officers within the Case Reception & Triage function have been

responsible for the management of DEC cases since November 2016; previously these cases were handled by Case Managers within the fitness to practise case teams. This paper will also consider the impact of the realignment on the management of DEC cases (see section 4).

2. Analysis of the review period

- 2.1 Between 1 April 2015 and 31 March 2017, the Fitness to Practise department received a total of 1444 health and character declarations from the Registrations Department. This is a decrease of 18% from the previous two year period, during which 1782 declarations were received.
- 2.2 This decrease in the number of DEC cases comes during a period when we have seen an increase of around 13,500 in the total number of professionals on the HCPC Register. The drop in the number of declarations being made is likely to be due to the improved guidance provided to applicants in relation to the Health and Character policy, implemented in July 2016, and in particular in relation to those protected cautions and convictions that do not need to be declared at the application/renewal stage (see para. 2.9 and 2.10 for an explanation of protected offences).

Declaration by profession

- 2.3 The table below shows the number of declarations received by profession during the review period:

Table 1: Declarations received by profession

Professions	April 2015 – June 2016	July 2016 – March 2017	Total Rec. during review period
Arts Therapist	10	6	16
Biomedical Scientist	22	14	36
Chiropodist / Podiatrist	21	9	30
Clinical Scientist	6	0	6
Dietitian	15	2	17
Hearing Aid Dispenser	16	7	23
Occupational Therapist	48	35	83
Operating Department Practitioner	43	27	70
Orthoptists	0	0	0
Paramedic	105	71	176
Physiotherapist	73	39	112
Practitioner Psychologist	28	16	44
Prosthetist / Orthotist	1	0	1
Radiographer	51	34	85
Social Worker in England	401	327	728

Speech & Language Therapist	14	3	17
TOTAL	854	590	1444

Table 2: Declaration types by profession

Professions	Health	Character	Caution/Conviction
Arts Therapist	5	3	8
Biomedical Scientist	2	7	27
Chiropodist / Podiatrist	4	7	19
Clinical Scientist	3	0	3
Dietitian	1	0	16
Hearing Aid Dispenser	1	6	16
Occupational Therapist	15	17	51
Operating Department Practitioner	5	13	52
Orthoptists	0	0	0
Paramedic	3	55	118
Physiotherapist	9	22	81
Practitioner Psychologist	4	21	19
Prosthetist / Orthotist	0	1	0
Radiographer	5	21	59
Social Worker in England	56	165	507
Speech & Language Therapist	2	6	9
TOTAL	115	344	985

70% of the declaration cases received related to three professions; Social Workers (50%), Paramedics (12%) and Physiotherapists (8%). These three professions currently make up 48% of the HCPC Register. The representation of these three registrant groups as a larger proportion of the DEC cases received is consistent with previous years and is also reflected in the proportion of fitness to practise investigations we receive relating to these professions. The professions with the lowest numbers of declarations are Clinical Scientists, Orthoptists and Prosthetists/Orthotists, which is also in line with previous years.

- 2.4 Applicants are required to make a health and character declaration at the point that they apply for admission or readmission on to the register. Similarly, on completion of each two year renewal cycle registrants must also declare that “there has been no change relating to your good character (this includes any conviction or caution, if any, that you are required to disclose) or any change to your health that may affect your ability to practise safely and effectively”. Any declaration made as part of the renewal process is in effect considered in the same way as an admission or readmission declaration.

Declarations by application type

- 2.5 Table 3 gives a breakdown of the type of declarations received by application type, admission (first time applications), renewals and readmissions:

Table 3: Declarations received by application type

Application Type	April 2015 – June 2016	July 2016 – March 2017	Total in Review Period
Admission	708	446	1154
Renewal	40	80	120
Readmission	106	64	170
TOTAL	854	590	1444

As we would expect, the largest number of declarations received were from first time applicants, making up 80% of the total number. Together with readmissions they totalled 92% of the declarations made during the review period. This is slightly lower than the period April 2013 - March 2015, when admission/readmission applications were 96% of the total received.

- 2.6 Declarations on renewal historically form a small proportion of the overall caseload. This is because existing registrants seeking to declare a health or character matter are likely to do so at the time of the issue arising (i.e. outside of the renewal period), as required under the Standards of Conduct, Performance and Ethics. Such declarations, or self-referrals, are considered under our fitness to practise processes. Some declarations made on renewal may also be referred for further investigation through the fitness to practise route if they require a more extensive investigation.
- 2.7 The number of renewal declarations in this period, whilst low at 120 (8%), was noticeably higher than for the previous two year period when just 65 renewal declarations were received (an increase of 85%).

Category of Declaration

- 2.8 Declarations are categorised into three broad areas; health, conviction/caution or other character matters.
- 2.9 Since May 2013 applicants are not required to declare 'protected' cautions or convictions. Cautions are protected if six years have elapsed since the date of the caution (or two years if the person was under 18 at the time). A conviction is protected if 11 years have elapsed since the date of conviction (or five and a half years if the person was under 18 at the time), it is the person's only conviction and did not result in a custodial sentence.

- 2.10 Cautions or convictions for “listed” offences will not be protected and must always be declared. There are more than 750 listed offences, including serious violent and sexual offences and other offences of specific relevance to the safeguarding of children and vulnerable adults.
- 2.11 ‘Character’ declarations include any other type of conduct matter that may have a bearing on an applicant’s ability to practise safely or effectively. In the vast majority of cases these declarations relate to the applicant having been disciplined by their employer or education provider, or to protection of title matters.
- 2.12 The table below sets out the number of declarations received by type.

Table 4: Declarations received by declaration type

Declaration Type	April 2015 – June 2016	July 2016 – March 2017	Total in Review Period
Character	202	145	347
Caution/Conviction	600	385	985
Health	52	60	112
TOTAL	854	590	1444

As with previous years, applicants declaring a caution or conviction made up the largest category; 65% of the 1444 declarations received. However, this figure was 35% less than the number of criminal matters declared in the previous two year period (1337). The lower number of caution/conviction declarations received after the introduction of the revised guidance for applicants in July 2016, may indicate that clarification of the process around declaring protected cautions/convictions accounts for the lower numbers.

- 2.13 The number of health declarations has also increased since the previous reporting period, going up by 5 percentage points from 2% of declarations to 7%. The number of character matters declared has remained consistent over this same period at 24%.

Declaration outcomes

- 2.14 Table 5 below gives the outcomes for all declarations received during the period. Those classed as active were still open at the end of March 2017, for example because they were waiting to be considered by a panel.

Table 5: Declaration outcome

Case Outcome	April 2015 – June 2016	July 2016 – March 2017	Total in Review Period
Signed off via Policy	459	485	994

Cases considered by Reg Panel	369	71	440
Case Referred to FTP process	11	15	26
Application withdrawn	7	9	16
Created in Error	7	5	12
Active Cases	1	5	6
TOTAL	854	590	1444

During the review period, 69% of the DEC cases received were signed off administratively within the department whilst 30% were referred to a Registration Panel to consider. This contrasts with the previous period when the majority of DEC cases were considered by a panel (54%). As expected, and as indicated by the table above, this is due to the change in policy implemented in July 2016 which is discussed in detail in section 3 below.

- 2.15 Cautions or conviction cases were the largest category of cases to be signed off, with over half of all the cases resolved in this way coming from this category. Table 6 below gives a more detailed breakdown of the relevant criteria against which cases were signed off.

Table 6: Declarations resolved by sign-off reason

Sign off Reasons	April 2015 – June 2016	July 2016 – March 2017	Total in Review Period
Driving Ban less than 12 months	131	33	164
Employer Disciplinary	39	28	67
Managed Health Condition	43	50	93
Offence considered by Education provider	6*	207	213
Other Jurisdiction	46	15	61
Other Motoring Offence	6	26	32
Protection of Title Concerns Resolved	12	13	25
Matter previously declared	25	15	40

Protected caution / conviction	151	98	249
TOTAL	459	485	944

*This criteria was introduced officially in July 2016 but was inputted by case managers on the CMS system shortly prior to go live in June 2016 in error. Given the proximity to the criteria coming into effect it was decided to leave this category on the system.

2.16 The main reason for cases being signed off administratively was due to the caution/conviction declared being 'protected', as described in section 2.9 above. Over the course of the review period a total of 249 cases were concluded without referral to a panel for this reason. Whilst we have amended our guidance for applicants to clarify that protected matters do not need to be declared to us, it seems that many are still unsure about when to declare and/or prefer to do so even if not required.

2.17 The second largest criteria under which declarations were approved administratively was due to the matter declared having already been considered by the education provider of an HCPC approved course, either prior to or during the applicant's course of study. During the course of the review period a total of 213 cases were approved for this reason, with 207 approvals being made following the change to the Health and Character policy in July 2016. Further discussion around this criteria can be found at section 3.4 below.

2.18 Cases signed off under the category of 'other jurisdiction' include those matters that do not engage the applicant's suitability to be on register. For example civil court matters such as an applicant declaring that they are taking a builder to a small claims court. 'Other motoring offence' includes minor matters such as parking fines or minor speeding offences.

2.19 During the review period, 440 cases were referred to a Registration panel to consider. The outcomes of those cases can be seen in Table 7 below:

Table 7: Declaration outcomes by Registration Panel decision

Panel Decision	April 2015 – June 2016	July 2016 – March 2017	Total in Review Period
Registration Approved	347	62	409
Registration Rejected	22	9	31
TOTAL	369	71	440

Of those 440 cases, 7% were refused registration. This compares to 5% of cases where the panel refused registration in the previous two year period (April 2013 to March 2015).

2.20 The table below provides details of the refusal reasons given by Registrations Panel:

Table 8: Registration Panel refusal reasons

Panel Refusal Reason	April 2015 – June 2016	July 2016 – March 2017	Total in Review Period
Education Provider FTP action	3	0	3
Employer Disciplinary	5	1	6
Multiple Convictions	5	4	9
Other regulatory action	3	0	0
POT matter	1	1	2
Serious caution/conviction received	3	3	6
TOTAL	20	9	29*

*2 cases were renewal declarations which the Panel remitted to the Fitness to Practise team for investigation under FTP procedures. The total number of applications not granted registration was 31.

Across the entire review period more applications were rejected by panels on the basis of the applicant declaring a serious or multiple caution/conviction than for any other reason. This is consistent with previous years. Examples of the types of offences declared include harassment, grievous bodily harm and robbery, all of which are listed offences.

3. Analysis of the impact of the revised policy

- 3.1 Due to the point in the biennial review cycle in which the revised Health & Character Declaration policy was implemented, we only have eight months' worth of data relating to the impact of these changes on our management of DEC's, compared to 15 months of data for cases considered in this period under the old policy. A like for like comparison of the two data sets is therefore not possible at this time and the analysis below should be considered to be indicative.
- 3.2 Whilst the proportionate split of declarations received in each category has remained the same post July 2016, the number of caution/conviction declarations received as a percentage of the whole has decreased from 70% pre-amendment to the policy to 65% post amendment. This is likely to be due to the clarified guidance provided to both applicants and staff on what constitutes a protected matter and when this should be declared.
- 3.3 As was the aim of the revised policy, there is a noticeable increase in the number of declaration cases being signed off administratively rather than referred to a Registration Panel (Table 5). In the period April 2015 to June 2016, 459 cases were resolved this way, compared to 485

between July 2016 and March 2017. Whilst this may not initially appear to be a large increase, when considered as a percentage of all the cases received in each period (854 and 590 respectively), the significance of the increase is clearer; 82% of cases were signed off following the change in policy compared to 54% before.

- 3.4 The majority of cases signed off from July 2016 onwards related to those cases where the matter had already been considered by the education provider. Under this criteria, which was introduced in the new policy, 207 cases were able to be concluded administratively which previously would have had to be referred to a panel. This equated to 43% of all cases signed off between July 2016 and March 2017.
- 3.5 Education providers are required to have a process for considering conduct or character matters involving a student which is declared either when applying for or which occurs during an HCPC approved programme of study. Those internal processes are in turn assessed by the HCPC's Education Department against the Standards of Education and Training, and approved by the ETC via the approval process and annual monitoring programme. That such matters will have already been assessed through a robust education provider process embedded in the HCPC Standards gives assurance that they are not being signed off without due consideration. However, the HCPC does still have the discretion to refer serious matters to the Registration Panel, even if already considered by an education provider, should it be appropriate to do so (Table 8).
- 3.6 One of the revisions to the policy was to clarify the sign off approach to those instances when disciplinary action has been taken by an employer. However, there has been no noticeable change to the number of cases being signed off against this criteria since the policy was revised. In the period April 2015 to June 2016 8% of sign off decisions were for this reason compared to 6% in the period July 2016 to March 2017. This may be due to the low number of renewal declarations received, where applicants are more likely to be employed at the point of making their declaration because they have a registered status. Issues arising whilst a student is on a placement with an employer may be managed through the education provider's process rather than an employer's.
- 3.7 Prior to the change to the policy the most common sign off reason was a protected caution and conviction having been declared. Following the changes to the policy this continues to be a main sign off reason, though is now the second largest category. 98 protected cautions or convictions were signed off during the post-amended policy period, which is 20% of all those resolved in this way. This is compared to 32% of sign offs coming from this category prior to July 2016.
- 3.8 As can be seen in Table 7 above, the change to the policy has had a significant impact on the number of cases being referred to and rejected by a Registration Panel. Between July 2016 and March 2017,

71 cases have been considered by a panel, compared to 369 in the 15 months before then. This equates to 12% of all DEC referrals received since July 2016 compared to 42% of DEC's received between April 2015 and June 2016.

- 3.9 The proportion of cases where registration was rejected by a panel has increased since the revised policy was introduced. Prior to the changes, 6% of cases considered by a panel were rejected. Since July 2016, the proportion of rejected cases has more than doubled to 13%. This is due to the constituent caseload being referred to a panel being made up of the more serious matters that engage questions of an applicant's suitability to be on the Register. The reasons for panels rejecting an application have not changed since the policy was revised, with declarations relating to multiple or serious convictions or cautions still being the main factor for this decision. The number of cases rejected for this reason as a proportion of all rejections has increased; 78% of cases since July 2016 compared to 40% before then (Table 8). However, an analysis of the 20 cases rejected by panels prior to July 2016 shows that all of them would still have been referred to a Registration Panel for consideration under the revised policy given the seriousness of the matters declared. This indicates that the increased proportion of rejections coming from the categories relating to convictions/cautions since July 2016 is not a direct result of the policy changes but a reflection of the types of declarations that we happened to receive during this period.
- 3.10 One of the key aims of broadening the scope of the type of the cases that could be signed off under the policy was to reduce delays in the handling of cases for those applicants whose registration was likely to be approved. We have not historically reported on length of time for DEC cases and so in order to assess the impact of the policy on this area we have taken an average of the open and closed dates for cases during the relevant period. The overall average number of days to process a health and character declaration during the two year review period was 21 days. Prior to the amended policy being introduced the average processing time was 23 days. This has reduced to 19 days following the introduction of the policy.

4. Conclusion

- 4.1 In conclusion, the management of the Health and Character Declaration process continues to work well. The last two year period has shown no significant changes to the type or category of declarations made either on admission/readmission or renewal, or in relation to the representation of the different professions within this area of work.
- 4.2 However, as the analysis set out above demonstrates, the changes introduced in July 2016 to broaden the criteria for administrative sign-off of declarations has had an immediate and significant impact on the operation of this workstream. The large reduction in the number of

cases referred to a Registration Panel for consideration has allowed us to resolve at an earlier stage those cases where registration was likely to be granted by a panel, providing a more efficient and streamlined process for those applicants in particular. In turn, the panel is able to focus on those serious cases where the question of an applicant's ability to practise safely or effectively is more clearly at play. In this respect the assumptions underpinning the changes to the policy have been borne out in reality.

- 4.3 The shift towards a greater number of cases being signed off administratively (82% compared to 54% prior to the policy change) highlights potential concerns around the quality of those decisions. All sign-off decisions must be made at manager level, this is by the Case Reception Manager, or by the Head of Case Reception & Triage in their absence. Since January 2017 these decisions have been subject to internal audit by the FTP Quality and Compliance Team in order to ensure decisions are appropriate, consistent, adhere to the policy and are clearly reasoned.
- 4.4 The management of DEC cases now rests solely with the Case Officer team, which sits within the Case Reception and Triage function. This change was made as part of the wider Fitness to Practise department realignment. The realignment had the objective of introducing greater specialisation in particular areas of our process. This change resulted in a greater focus on DEC cases amongst a more concentrated team. This has allowed us to better monitor the progression and quality of these cases and ensure greater consistency in application of the policy. We have also implemented specific training workshops for the team on DEC cases and are in the process of reviewing our internal guidance on the basis of our review of the policy.
- 4.5 We had expected that there would be greater efficiencies made in the length of time it took to process declaration cases given the time saved by not having to convene or prepare for a panel; at present the data indicates an improved turnaround time of four working days. One reason for this may be that although the proportion of cases not going to a panel has increased, the Case Officers managing this work are spending more time on the investigation and information gathering stage to ensure that any sign off decision is supported by robust evidence. For example, obtaining full documents from an education provider to be able to assess the process by which they have considered a matter.
- 4.6 Our analysis has also identified areas for improved management reporting and data collection, particularly in the way in which case categories and decision reasons are completed in our case management system and how we measure length of time. We will be working with the Fitness to Practise Operations team over the next few months to implement these changes. We anticipate that improved data collection and reporting, along with a continued programme of workshops for Case Officers on DEC process, will mean that we are

able to further reduce the length of time it takes us to progress DEC cases.

5. Recommendations

- 5.1 Changes to the Health and Character Declaration policy were implemented in July 2016 and have therefore only been in place for eight months by the end of the review period. Although there has been an immediate impact as a result of the revised policy, as set out above, it is recommended that no further changes are made at this time to allow the current policy to become more fully embedded.
- 5.2 The next review of the Health and Character Declaration policy is due in 2019 for the period April 2017 to March 2019, which will give us an opportunity to analyse a full two years' worth of data relating to the operation of the current policy and make any recommendations to the Education and Training Committee arising from that review. However, further analysis can be undertaken should the ETC consider a further report would be of value before the next scheduled review date.

Fitness to Practise Department
August 2017