

Fitness to Practise Committee – 13 October 2011

CHRE learning points

**Executive summary and recommendations**

Attached as an appendix to this paper is a report reviewing the learning points developed by CHRE when reviewing final decisions of panels of the Conduct and Competence Committee and of the Health Committee.

**Decision**

This paper is to note, no decision is required.

**Background information**

None

**Resource implications**

None

**Financial implications**

None

**Appendices**

Appendix One – CHRE Learning Points

**Date of paper**

3 October 2011

## **CHRE learning points**

### **1 Introduction**

- 1.1 In accordance with section 29 of the NHS Reform and Health Care Professions Act 2002, the Council for Healthcare Regulatory Excellence (CHRE) can refer decisions made by panels of HPC's Conduct and Competence Committee if they feel that the decision reached is 'unduly lenient' or 'under prosecuted'. At the conclusion of all final or review hearings, HPC hearings officers send out a copy of the decision to enable CHRE to undertake their review. As part of this review, CHRE also issue 'learning points' to aid regulators in improving the quality of decision making and other aspects of the fitness to practise process.
- 1.2 This report summarises the types of learning points received in the period April 2011 to August 2011, and describes the actions taken by the Executive to mitigate future occurrences.

### **2 Process for receiving and handling learning points**

- 2.1 The Scrutiny and Quality team at CHRE review all substantive hearing decisions taken by panels of the Conduct and Competence and Health Committee. HPC take steps to ensure that as far as is possible CHRE are provided with a copy of the decision on the concluding day of the hearing given the limited time they have to review decisions. Additionally, HPC proactively sends to CHRE a list of concluded cases from the previous week to assist their review process.
- 2.2 In some cases, CHRE will request further information to aid in their decisions. A secure internet-based data transfer portal exists through which HPC can send sensitive materials, such as the transcript of the hearing, or documents exhibited during the proceedings.
- 2.3 CHRE use this information to raise concerns, ask for clarifications or make recommendations to HPC about specific cases. Cases where there are significant concerns can be formally challenged using the section 29 legislation. There have been no such challenges in 2011.
- 2.4 On receipt of learning points, the Executive review then review each case, and respond to CHRE. This allows the opportunity to agree (or not) with

the learning point, and to indicate any changes made to the system for processing cases or support for hearing participants.

- 2.5 The Executive use the CHRE learning points as practical case studies for the regular refresher training for panel members. This allows any learning to be propagated across a wider number of panels. To further this effect and achieve greater consistency, the learning points are also circulated to all panel members where appropriate as part of the quarterly Panel member newsletter.

### **3 Analysis of learning points since April 2011**

- 3.1 The following table summarises the number of learning points received since April 2011. The learning points cover cases that were heard by panels between 9 September 2010 and 25 May 2011.

Date received from CHRE	Number of Cases affected	Number of Registrants affected	Total Number of Learning Points	Number of Areas of Concern
8 April 2011	6	6	6	2
13 May 2011	24	24	37	11
22 June 2011	16	16	28	10
1 August 2011	12	12	17	9
30 August 2011	8	8	12	9

- 3.2 There is variation in the number of learning points received each month. So far, each learning point has related to a case where there is only one registrant involved.
- 3.3 Each case may have more than one learning point. The average to date is 20 individual learning points per month since April, but the numbers in June and August suggest current practice is better than this average.
- 3.4 Some learning points are repeated across a number of cases, hence the difference between the Total Number of Learning Points and the Number of Areas of Concern. The average number of areas where learning points apply is 9 per month.

3.5 The following table summarises the areas to which learning points relate.

	30-Aug-11	01-Aug-11	22-Jun-11	13-May-11	08-Apr-11
<b>Learning point issue</b>					
Appropriateness of sanction/Alternate sanction proposed	2	4	2	9	
Lacking detail of remedial action or insight		3	4	3	
Too lenient	2	1		2	
Insufficient detail in the published decision	1	1	5	6	
Insufficient detail for future reviewing panel	1	2		3	
Poor reasoning		1	1	1	
Missing charges or poor drafting	1	2	4	5	1
Lacking or not utilising medical evidence				1	2
Insufficient detail relating to compliance with previous conditions	1	2	2		
Confidentiality issues					
Not applying indicative sanctions			2	4	
Evidential issues	1		5	2	1
Not considering IO	2				
Cause of impairment challenged					2
discontinuance issues			1	1	
<b>Other</b>					
Deal with by a single committee	1				
Patient harm not referenced			2		
Panel did not intervene in hostile questioning		1			

- 3.6 Total learning points received were: 6 in April, 37 in May, 28 in June, 17 on 1 August, and 12 on 30 August.
- 3.7 The number of distinct areas to which the learning points relate were: 4 in April, 11 in May, 10 in June, 9 on 1 August and 9 on 30 August.

## **4 Emerging trends**

- 4.1 There is broadly a decrease in the number of learning points issued each month. HPC have performed similar levels of activity in each month, so it can be concluded that the number of issues of concern to CHRE are reducing. There is a trend in reduction of the numbers of learning points within each category, suggesting that Panel training work is addressing the most common issues, such as challenges to the imposed sanction, or the level of detail in published decisions.
- 4.2 On a monthly basis, themes are evident in the learning points. These are not always replicated in the following months, which may mean that the actions that HPC are taking are having an impact, or that CHRE are focusing on certain types of cases or concerns each month. Longer term analysis will help to clarify this.
- 4.3 Lack of detail about the case is the most common learning point. This relates to either the published decision, the remedial actions put forward in evidence by the registrant, or making explicit what a future review panel should expect to see as evidence.
- 4.4 CHRE also express concerns relating to the appropriateness of sanctions, either in length of suspension, or the practicality of conditions imposed on the registrant.
- 4.5 A final trend is the perceived lack of evidence for decisions. The main concern relates to not calling for or using medical evidence in health related cases, but there have also been concerns raised relating to the strength of live evidence or reliance on hearsay evidence.

## **5 Actions as a result of the learning points**

- 5.1 The Executive have responded to every learning point within 3 weeks of receipt, detailing agreement or disagreement, and outlining the actions taken as a response.
- 5.2 Training has been delivered to a range of Panel members on practical examples of learning points. This has reinforced the additional training on decision-making that has also been delivered. As the number of learning

points is reducing, this suggests that the training and awareness is having the appropriate effect.

- 5.3 The Practise Note Drafting Fitness to Practise Decisions was updated in March 2011. It contains guidance on drafting style, what to include in a decision and a conditions bank that covers frequently used statements from conditions of practise cases to ensure consistency. This Practise Note will continue to be reviewed in light of feedback from CHRE via the learning points, and should also reduce future learning points if followed by Panels. The use of, and changes to, Practise Notes is communicated to Panel Members at refresher training, and via e mail updates.
- 5.4 The Executive conducts a regular audit of final hearing decisions. The third and most recent audit covers the period 1 January to 31 August 2011. The audit findings are being considered as a separate paper at the Fitness to Practise Committee in October 2011 and are included in future quality improvement works.
- 5.5 Training has been developed for Hearings Officers to ensure they understand the types of concerns raised about decisions and how they are viewed by external parties, and can raise concerns directly via the legal assessor.
- 5.6 We have shared the learning points with our external legal investigators and presenters to ensure future cases do not generate the same concerns where possible.

## **6 Planned and future work**

- 6.1 An annual report of learning points and actions taken will be presented to FtP Committee.
- 6.2 As part of the development of a proportionate quality assurance system for FtP, final decisions or outcomes of reviews for certain high risk cases will be reviewed on completion of the case.
- 6.3 In 2012, following confirmation of the timing of the transfer order, FtP will develop and carry out an assessment of risk for cases transferred from General Social Care Council, by applying the types of learning points to this new group of cases. A plan will be developed in summer 2012, once the progress of the transfer order and the number of cases is known.
- 6.4 Continued use of learning points as part of the panel refresher and induction programme, and wider circulation in the FtP quarterly newsletter.

## **7 Conclusion**

7.1 Learning points are useful to highlight specific aspects of system performance and quality. The Executive will continue to work collaboratively with CHRE to consider and respond to learning points, and to summarise the trends that emerge.