

Fitness to Practise Committee, 10 October 2013

Audit of final fitness to practise decisions 01/11/12 – 30/06/13

Executive summary and recommendations

Introduction

The attached paper is a report of the audit of final fitness to practise hearing decisions, covering the period 1 November 2012 to 30 June 2013. The purpose of the audit is to review the quality of decisions reached by fitness to practise committee panels.

Decision

The Committee is invited to:

- discuss the results of the audit; and,
- agree the actions proposed by the Fitness to Practise Department (page 18).

Background information

- Audit report for Fitness to Practise Committee, 14 February 2013
<http://www.hpc-uk.org/assets/documents/10003EC5enc08-auditoffinalFTPdecisionsApril-October2012.pdf>

Resource implications

None at this time

Financial implications

None at this time

Appendices

- Audit form for final hearing decisions

Date of paper

20 September 2013

Audit of final fitness to practise decisions 1 November 2012 – 30 June 2013

Analysis of final fitness to practise decisions for the audit period, identifying appropriate learning points and recommendations.

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1. Introduction

About the audit

- 1.1 This audit of final hearing decisions is based on the practice note 'Drafting fitness to practise decisions', which provides guidance to panels on the content that should be included in written decisions. Five audits of final fitness to practise hearing decisions using this format have been carried out by the Policy and Standards Department between April 2010 and October 2012.
- 1.2 The sixth audit, documented in this paper, was carried out between 1 November 2012 and 30 June 2013 and applies the same process as the previous audits. The audit assesses Fitness to Practise panel adherence to the applicable law and to HCPC policy in particular areas. The focus of the audit is on monitoring whether panels have followed the correct process and procedure, including whether sufficient reasons have been given for decisions made. The audit flags areas where further policy development or consideration is required, but does not go as far as to question the decisions of the panel, as this would jeopardise the independence of panels, which operate at arm's length from the Council and the Executive.
- 1.3 The learning points from the audit will be fed back into operational policy development and into training and appraisal processes.

About this document

- 1.4 This document summarises the results of the sixth audit. The document is divided into the following sections:
 - **Section two** explains the audit process, how the data from each decision has been handled and analysed, and provides the statistics for each question of the audit.
 - **Section three** provides a summary of emerging themes identified in the results and notes areas of change or improvement since the last audit.
 - **Section four** outlines the Fitness to Practise Department's response to the learning points from the audit and makes some recommendations for future action.
 - **Appendix one** contains the full set of questions each decision was audited against.

2. Analysing the decisions

Method of recording and analysis

- 2.1 The Policy and Standards Department has been responsible for carrying out the audit. The audit process and analysis have been carried out by one of the department's policy officers. The auditor's understanding of the HCPC fitness to practise procedures is based on the relevant practice notes and policy summaries.
- 2.2 This analysis includes final hearings, restoration hearings, cases of fraudulent entry to the register, full discontinuance hearings, and Article 30 review cases, reviews of conditions of practice orders and suspensions. Interim order cases and cases which were adjourned and did not reach a final decision during the audit period do not fall within the scope of the audit.

Statistical analysis

- 2.3 A total of 320 decisions were analysed as part of the audit, of which 223 (70 per cent) were final hearing cases and 97 (30 per cent) were Article 30 reviews. 305 cases (95 per cent) were considered by conduct and competence panels and 14 cases (4 per cent) were considered by health panels. The remaining hearing was considered by an investigating panel in relation to fraudulent entry to the Register.
- 2.4 This section provides indicative statistics for the answers to the audit questions. The percentages calculated are rounded to the nearest whole number so may not always add to 100 per cent.
- 2.5 These statistics do not include individual case details but where necessary contextual explanation has been provided to clarify the way the audit question was interpreted by the auditor and the reason for particular results.

Procedural issues

- 2.6 **If the registrant was not there and unrepresented, did the panel consider the issue of proceeding in absence?**

| Yes | No | Not applicable |
|-----------|--------|----------------|
| 162 (51%) | 2 (1%) | 156 (49%) |

During the audit period, there were 156 instances where the registrant was present at the hearing or represented. There were 164 hearings where the registrant did not attend or was not represented.

Of the latter there were two cases where the panel did not record whether they considered the issue of proceeding in the absence of the registrant. One of these hearings was a consent order hearing, the other was a review hearing. Though the panel may have considered

the issue of proceeding in the absence of the registrant, this was not reflected in the written decision.

2.7 Did any other procedural issues arise?

| Yes | No |
|-----------|-----------|
| 148 (46%) | 172 (54%) |

Procedural issues noted by the auditor included amendments to, or withdrawals of, allegations; applications to discontinue proceedings; submissions of 'no case to answer' and applications for hearings to be held in private. Further discussion of emerging issues from this question is provided in section three of this document.

2.8 Was Legal Assessor advice disregarded?

| Yes | No | Not recorded |
|--------|-----------|--------------|
| 0 (0%) | 234 (73%) | 86 (27%) |

Most cases considered during the audit period had due regard to the advice of the relevant legal assessor. However, a number of decisions made no mention of the advice received from the legal assessor, discussed further in section three.

2.9 Was the three-stage test applied?

| Yes | No | Not applicable |
|-----------|--------|----------------|
| 171 (53%) | 1 (3%) | 148 (46%) |

There are a number of decisions where the three-stage test does not need to be applied. These cases include review hearings and consent order cases where findings of facts, grounds and impairment have been proven either in a previous hearing or through consent. In practice some review and consent order decisions demonstrated that the three stage test had been applied but for the purposes of this audit have not been considered in this section.

The auditor interpreted this question to mean cases where the three-stage test was applied explicitly. The results show that there was only one case considered during the audit period that did not record the application of the three-stage test when it should have been applied. This was a substantive final hearing considered by a conduct and competence committee. Though the panel considered the facts, which they considered proven by written evidence of a police caution, they went on to consider impairment without explicitly referring to grounds. Though the panel may have applied the three-stage test in practice, this is not reflected in the written decision.

The table below breaks down the number of cases where the three-stage test was not applicable by the type of decision hearing.

| Type of decision hearing | Number of cases (148) |
|--------------------------|-----------------------|
| Review hearings | 97 |
| Consent orders | 31 |
| Other | 20 |

The ‘other’ category refers to cases where alternative orders were made outside the range of the usual sanctions. These cases included:

- sixteen cases where the allegations had been discontinued in full, so a full hearing of the evidence was not heard;
- two conduct and competence hearings which were transferred to the health committee;
- one restoration hearing; and,
- one hearing investigating fraudulent entry to the register.

2.10 Evidence by way of mitigation considered?

| Yes | No |
|-----------|-----------|
| 200 (63%) | 120 (38%) |

All of the decisions which recorded that mitigating evidence was presented demonstrated that it was appropriately considered by the panels. Evidence by way of mitigation was not considered in 120 (38%) cases. These cases included the 31 consent order cases where allegations had been accepted by the registrant and the 16 discontinuance cases where the allegations had been discontinued in full. In the remaining 73 cases, the registrant in question had not engaged with the fitness to practise process and/or had not provided any mitigating evidence for the panel to consider, as far as the auditor can determine from the written records of these decisions.

Drafting

2.11 Is the decision written in clear and unambiguous terms (does it avoid jargon, technical, or esoteric language)?

| Yes | No |
|-----------|--------|
| 316 (99%) | 4 (1%) |

The auditor interpreted this question to mean that the language used in the decision was appropriate to the context. Four decisions were considered by the auditor to be unclear as a result of their repeated use of complex words and unexplained technical phrases. There were a few instances in several other decisions of unclear use of language, but

as it did not occur throughout the decisions was not substantial enough to be included in this category. The use of language in the decisions audited is discussed in more detail in section three of this report.

2.12 Is it written in short sentences?

| Yes | No |
|------------|--------|
| 320 (100%) | 0 (0%) |

All decisions during the audit period demonstrated appropriate sentence lengths for the subject being discussed. This means that though the sentences in some decisions were not necessarily short, they were appropriate to the concepts discussed in the decisions which required a more complex sentence structure.

2.13 Is it written for the target audience?

| Yes | No |
|------------|--------|
| 320 (100%) | 0 (0%) |

The auditor interpreted ‘target audience’ to mean members of the public and profession. This question refers to the previous two questions about the language and construction of the written decision. Though the auditor found that the language was more complex than necessary in four cases above, all decisions in this review process were considered to be aimed appropriately at the target audience.

2.14 Was the factual background of the case included in the decision?

| Yes | No |
|-----------|---------|
| 306 (96%) | 14 (4%) |

A small number of decisions did not include the factual background of the case, including ten review hearings, and two consent order hearings where facts had been previously established. The remaining two cases related to discontinuance hearings where the panel decided there was not enough evidence to establish the facts and the hearings were discontinued in full.

A review hearing of a sanction imposed by the General Social Care Council (GSCC) stood out as being particularly sparse. The decision contained less factual information about the nature and circumstances of the findings against the registrant concerned than usually provided in HCPC hearings.

2.15 If a review hearing, does the decision make reference to previous facts?

| Review hearing | Not a review hearing |
|----------------|----------------------|
| 97 (30%) | 223 (70%) |

| Review hearings | |
|--------------------|-----------------------|
| Reference to facts | No reference to facts |
| 93 (96%) | 4 (4%) |

Four hearings did not make reference to previous facts; two reviews of suspension orders and two reviews of conditions of practice orders.

One of the conditions of practice reviews refers to the case mentioned above that transferred from the GSCC. On average the auditor found that the reviews of cases transferred from the GSCC were less comprehensive, but this was particularly evident in this review.

2.16 Is it a stand alone decision?

| Yes | No |
|-----------|---------|
| 308 (96%) | 12 (4%) |

The majority of decisions made during the audit period could be reasonably considered as ‘stand alone’ decisions. This means the decision stands alone as a document of a hearing and decision-making process, and does not need additional explanatory material to be understood or to explain the outcomes or sanction imposed. There were twelve decisions that the auditor felt could not be considered stand alone as they did not reference the original allegations. These decisions are discussed in more detail in section three below.

2.17 Are there adequate reasons for the decision?

| Yes | No |
|-------------|----------|
| 319 (99.7%) | 1 (0.3%) |

In interpreting this question the auditor assessed whether the reasoning process shown in the decision was adequate given the conclusion the panel reached. In doing so the auditor did not seek to go behind the decision of the panel.

Almost all decisions demonstrated adequate reasoning, and on the whole the panels provided appropriate and clear explanations for the decisions reached. Out of the 319 decisions that provided adequate

reasoning, the auditor felt only one just met the threshold level of reasoning required.

The standard of reasoning in the remaining decision fell lower than that of the rest of the decisions audited. This decision relates to a final hearing heard by a conduct and competence committee. The panel in question adequately established that the case was well founded, though went on to make a conclusion about the sanction without explicitly considering any other sanctions, or providing any reasoning for the chosen sanction of a three year caution order.

2.18 Conclusions on submissions (adjourned, facts, admissibility)?

| Yes | No |
|------------|--------|
| 320 (100%) | 0 (0%) |

All decisions made during the audit period recorded adequate conclusions on the information presented during the hearing.

2.19 Does it clearly set out the finding of facts (including disputed and undisputed facts and if disputed, why the decision was made)?

| Yes | No |
|-----------|----------|
| 288 (90%) | 32 (10%) |

Most audit decisions set out the finding of facts. The 32 exceptions refer to the 31 consent orders and 1 restoration hearing. Consent orders do not usually include findings of facts as they have been admitted in total by the registrant in question and restoration hearings do not typically set out the facts as found prior to removal from the register.

2.20 What standards were referred to?

128 (40%) decisions referenced a form of standards and the following table sets out which standards were referred to in this audit period. Thirty-one decisions referred to more than one set of standards, therefore the total number of references is greater than the number of decisions in this category.

| Standards referred to in decisions | Number of decisions |
|---|---------------------|
| Standards of conduct, performance, and ethics | 102 |
| Standards of proficiency | 36 |
| Standards of another organisation | 21 |

Other standards or regulations referred to by panels were:

- General Social Care Council Code of Conduct (19)

- NHS Standards of Business Conduct (1)
- The Meriden Hospital's Standard Operating Procedure (1)

Order

2.21 What was the panel's decision?

| Sanction | Number of orders made (from 320) |
|------------------------|---|
| Striking off | 62 (19%) |
| Suspension | 85 (27%) |
| Conditions | 32 (10%) |
| Caution | 28 (9%) |
| Mediation | 0 (0%) |
| Not well founded | 36 (11%) |
| No further action | 25 (8%) |
| Consent order | 30 (9%) |
| Discontinuance in full | 15 (5%) |
| Other | 7 (2%) |

Almost all of the consent orders audited in this period resulted in removal from the Register, however in two cases the panel decided to impose conditions of practise orders through consent.

The 'other' category refers to cases where alternative orders were made outside the range of the usual sanctions. These orders included:

- one restoration to the Register;
- one removal in a case of fraudulent entry to the Register;
- three hearings which were transferred to a health committee
- a rejected discontinuance order, whereby the panel directed that the case be held in full; and,
- a rejected consent order, whereby the panel directed that the case be referred to conduct and competence committee.

2.22 How long was the sanction imposed for?

This question applies only to suspension, condition of practice, and caution orders. This section sets out the lengths of these sanctions in this period, relevant to the type of sanction order made.

As the length of sanction that can be imposed varies between the different types of sanctions, the relevant sections of the indicative sanctions policy has been included alongside the relevant statistics.

Suspension

The indicative sanctions policy states that “*a suspension order must be for a specified period not exceeding one year. [...] Suspension for short periods of time (i.e less than a year) is a punitive step which panels generally should not use...however, short term suspension may be appropriate where a lesser sanction would be unlikely to provide adequate public protection, undermine public confidence, or be unlikely to have a suitable deterrent effect upon the registrant in question and the profession at large.*”

| Length of suspension | Number of orders (total 85) |
|-----------------------------|------------------------------------|
| 2 months | 1 |
| 3 months | 2 |
| 4 months | 1 |
| 6 months | 5 |
| 9 months | 1 |
| 12 months/1 year | 75 |

The small number of cases where the panel imposed a period of suspension shorter than a year seems generally consistent with the guidance, as panels only imposed such orders where they had a specific reason to do so.

- The two month suspension order related to an early review hearing where the panel felt that allowing the application to proceed or confirming the existing order would undermine public confidence in the profession and the regulatory process. Two months was added to the remaining month of the original suspension order to mean that the registrant had three further months of suspension.
- The three and four month suspension orders were all imposed as the panels considered this period long enough to sufficiently mark the seriousness of the registrants behaviour and secure appropriate public confidence in the regulatory process, considering any longer to be excessively punitive and disproportionate. In all three cases the panel felt that a lesser sanction would not adequately address the identified concerns.
- All five of the hearings imposing six months suspension orders related to extending existing suspension orders. They were imposed for one of the following reasons:
 - to allow the registrant to finish a training course;
 - to allow the registrant enough time to appropriate relevant evidence; and,
 - to allow the registrant to engage with the process, including sending notice of the hearing abroad.

- The nine month suspension order was considered by the panel to be sufficient to allow the registrant to undertake remedial action and mark the gravity of the misconduct identified.

Conditions

The indicative sanctions policy states that “*a conditions of practice order must be a specified period not exceeding three years. [...] In some cases it may be appropriate to impose a single condition for a relatively short period of time to address a specific concern.*”

| Length of conditions order | Number of orders (total 32) |
|-----------------------------------|------------------------------------|
| 6 months | 3 |
| 8 months | 1 |
| 12 months/1 year | 15 |
| 16 months | 1 |
| 18 months | 5 |
| 2 years | 4 |
| 3 years | 3 |

The length of conditions of practice orders imposed seemed to be consistent with the guidance in the indicative sanctions policy. The longer conditions of practice orders were imposed on registrants with a greater need for support to reach full competence, and shorter periods imposed where there were fewer issues to be addressed.

Caution

The indicative sanctions policy states that “*a caution order must be for a specified period of between one year and five years...In order to ensure that a fair and consistent approach is adopted, panels are asked to regard a period of three years as the ‘benchmark’ for a caution order and only increase or decrease that period if the particular facts of the case make it appropriate to do so.*”

| Length of caution order | Number of orders (total 28) |
|--------------------------------|------------------------------------|
| 12 months/1 year | 2 |
| 18 months | 1 |
| 2 years | 2 |
| 3 years | 13 |
| 4 years | 3 |
| 5 years | 7 |

Panels seemed to be consistent in their application of the guidance in the indicative sanctions policy with regard to the length of caution orders, with the average length of a caution order being three years.

2.23 Does the order accord with sanction policy?

| Applicable decisions | Not applicable |
|----------------------|----------------|
| 237 (74%) | 81 (26%) |

| Applicable decisions | |
|----------------------|------------------------|
| Accord with policy | Not accord with policy |
| 237 (100%) | 0 (0%) |

The auditor found that all applicable cases appropriately accorded with sanction policy. Only orders that applied a sanction are included in this category, including consent orders and removal orders. This question does not include decisions where no sanctions were imposed, including decisions which were not well founded/no case to answer, where the case was discontinued or the panel decided that no further action was necessary, or transferred the case to a different panel.

2.24 Does it state the operative date of the order?

| Applicable decisions | Not applicable |
|----------------------|----------------|
| 263 (82%) | 57 (18%) |

| Applicable decisions | |
|----------------------|-------------------|
| State operative date | No operative date |
| 263 (100%) | 0 (0%) |

All cases where a sanction order was imposed stated the operative date of the order. This category includes all sanction orders, restoration orders and orders of 'no further action' where in reviewing a sanction order the panel decided that the registrant's fitness to practise was no longer impaired.

2.25 Does it state the end date of the order?

| Applicable decisions | Not applicable |
|----------------------|----------------|
| 147 (46%) | 173 (54%) |

| Applicable decisions |
|----------------------|
|----------------------|

| State end date | No end date |
|-----------------------|--------------------|
| 147 (100%) | 0 (0%) |

All relevant cases which imposed a sanction able to expire stated the end date of the order. This category includes suspension, conditions of practice and caution orders. Not applicable to this section were decisions that did not impose a sanction order, and consent orders for removal from the Register and orders to strike off which do not have end dates.

2.26 Conditions

Conditions of practice were imposed in 34 cases, this number includes the two consent orders in which conditions of practise orders were decided by the panel through consent. The following tables analyse the conditions set according to the guidance in the indicative sanctions policy.

Are they realistic (is the registrant able to comply)?

| Yes | No |
|------------|-----------|
| 34 (100%) | (0%) |

All of the conditions set during this audit period were sufficiently realistic.

Are they verifiable (are dates on which information is due specific and clear)?

| Yes | No |
|------------|-----------|
| 34 (100%) | 0 (0%) |

The auditor found that all conditions imposed were verifiable and provided specific and clear information about what evidence would be required to meet the conditions and when it would be required.

Are they imposed on anyone other than the registrant?

| Yes | No |
|------------|-----------|
| 0 (0%) | 34 (100%) |

The auditor interpreted this question to refer to decisions where persons other than the registrant were directly required by the panel to carry out an action to enable the registrant to meet conditions. Where the registrant was responsible for organising other people to carry out certain actions, the auditor understood that the conditions were only imposed on the registrant. Based on this interpretation, all of the

conditions set in this period were imposed only on the registrants in question. Though many conditions of practice orders imposed a supervisory requirement they did not refer to supervision by any named person and stipulated that the registrant needed to organise these arrangements.

3. Emerging themes

This section discusses the themes that emerged from the analysis of specific audit questions and where necessary provides more detailed results to highlight areas for further consideration.

Procedural issues

- 3.1 There were a wide range of procedural issues considered by panels during the period of this audit and the following table sets out the number of instances different types of procedural issues occurred. Some cases considered a number of different procedural issues, so the total number of issues raised does not directly correspond to the total number of hearings (148) where procedural issues were considered.

| Procedural issues | Number |
|--|---------------|
| Request for hearing, or part of hearing, to be held in private | 34 |
| Amendments, corrections or withdrawal of allegations | 103 |
| Application for full or partial discontinuance of allegations | 11 |
| Application of no case to answer | 10 |
| Application for adjournment of hearing | 11 |
| Application for case to be transferred to health committee (conduct and competence cases only) | 7 |
| Other procedural issues | 19 |

- 3.3 The audit showed that the procedural advice provided for Fitness to Practise panels is generally well followed. Most procedural issues were relatively straightforward, such as minor amendments to allegations and applications for hearings to be heard in private. The ‘other’ category relates to cases where more unusual procedural issues occurred, as summarised below.
- Five cases in which the panel considered the admissibility of particular pieces of evidence. This covers instances where an application was made that some evidence was inadmissible, and cases where new evidence was put forward and the panel considered whether it should be included.
 - Four cases related to panels considering special measures in relation to hearing evidence. Two cases related to hearing evidence via video link and two cases to admitting witnesses to give evidence from behind a screen.

- In one of the above cases the panel was asked to reconsider its decision in relation to special measures.
 - Two cases in which the panel in question considered severing cases that had previously been joined.
 - In one case the panel considered the possibility of actual and apparent bias due to knowledge of a previous investigation.
 - The panel considered continuing to proceed in the absence of the registrant in one case after the registrant left halfway through the proceedings.
 - In one instance an application was made that the panel recuse itself.
 - One case required consideration of the jurisdiction of the panel.
 - The panel considered an application to introduce an expert witness on one occasion.
 - The panel considered an application to anonymise the identities of service users in the records of the hearing on one occasion.
 - One case was remitted to the HCPC for further consideration from the High Court.
- 3.4 The previous audit made mention of an increase in administrative errors on the part of the HCPC which included evidence missing from bundles, incorrect information given to panels and not enough notice being given to a registrant. This audit found that none of the procedural issues experienced in cases of this period were as a result of mistakes made by the HCPC.

Legal advice

- 3.5 The auditor found it was particularly difficult to assess decisions in relation to legal advice, as 27% of decisions made no mention of the legal assessor, or any advice they may have received from them.
- 3.5 The majority of decisions stated that the panel accepted the advice of the legal assessor, and often provided some detail as to the advice they received. However, 86 decisions in this audit period did not include any reference to the legal assessor.

Drafting

- 3.7 The drafting of decisions across the audit period was often of high quality and the majority of decisions were appropriately structured and written. The following provides further comment on drafting issues.

3.8 Summary of allegations

The majority of decisions audited tended to include either a list of the original allegations or a summary of these allegations towards the beginning of the decision write up. However twelve decisions did not include reference to the allegations. Eight of these decisions related to

review hearings and four to consent orders, as such in all of these cases the allegations had been found proved in previous hearings or accepted through consent.

The auditor felt it was likely that a summary of allegations should have been included in these twelve decisions given this was the case in all of remaining 308 decisions. The auditor determined that without this information, these decisions could not be interpreted as ‘stand alone’ as it is not possible to fully understand the decisions of the panel without understanding the allegations made against the registrant in question. This interpretation is reflected in the statistics in section 2.17 above.

3.9 **Use of language**

Most decisions used simple language appropriate to the context. Some decisions included allegations which referred to technical skill or complex concepts, and in such decisions the auditor judged that it was appropriate for the issues to be discussed using the appropriate technical terms which were generally explained as necessary.

Though there were only four cases that did not meet the ‘clear and unambiguous’ test, there were twelve other decisions which included occasional use of unnecessarily esoteric or unexplained technical language.

3.10 **Proof-reading and editing**

The standard of proof reading and editing of decisions being released as final versions has been noted in previous audit reports. The last audit identified some improvement with 21% of decisions including identifiable spelling, grammar, formatting errors in the final decisions for the period.

This audit found that only 14% of decisions in this period contained any of these errors, a marked improvement to the 21-28% level of the last five audits. The majority of errors identified in this period related to inconsistent formatting, with irregular paragraph spacing, character spacing, page numbering and use of bold text among the most prominent.

Two decisions in this audit period appeared to be unfinished and included missing details and several unfinished sentences.

4. Learning points and recommendations

4.1 The Fitness to Practise Department made the following comments in relation to the report:

- Over the last 12 months we have delivered refresher Panel training sessions using case studies from previous hearing decisions. We believe this is the main factor in the improvement of readability, structure and the appropriateness for target audience when compared to the previous year's decisions. We will continue to use examples of decisions in the refresher and induction training session for Panel members in the coming year.
- The Hearing Officer has played a greater role in quality checking the content, grammar and spelling of decision documents in the last year. The officers highlight any inaccuracies to the Panel and make the necessary changes before publication. Hearings Officers have had training in clear English and document proof reading. We are also trialling an approach where a member of the adjudication team quality checks the decisions of other officers as an additional quality measure.
- The number of pre-hearing administrative errors has reduced to zero due to the enhanced checks of the bundle and the documentation and arrangements associated with the case. This process is currently being reviewed for any further enhancements.
- Part of Fitness to Practise work plan for this year includes evaluating and improving the pre-hearing administration work. We are looking at other regulators' approaches as well as identifying ways in which we can enhance the management of changes to allegations, use of preliminary meetings and our advice and guidance in the form of practice notes. This work has already started and will be complete by March 2014.

5. Appendix

Audit Form Final/Review Hearing Decisions

| | |
|-----------------------|--|
| Case details | |
| Case name | |
| Case reference | FTP |
| Panel type | Conduct and Competence/ Health/Investigating/Review |
| Hearing date | |
| Legal Assessor | |
| Panel Chair | |

1. Procedural issues

| | |
|---|--|
| If the registrant was not there and unrepresented, did panel consider issue of proceeding in absence? | Yes/No/Registrant or representative attended |
| Did any other procedural issues arise? | Yes/No/Comments |
| Was Legal Assessor advice disregarded? | Yes/No/Comments |
| Was the three stage test applied? | Yes/No/Comments |
| Evidence by way of mitigation considered | |

2. Drafting

| | |
|---|------------------------------------|
| Is decision written in clear and unambiguous terms (does it avoid jargon, technical, esoteric language)? | Yes/No/Comments |
| Is it written in short sentences? | Yes/No/Comments |
| Is it written of target audience? | Yes/No/Comments |
| Was the factual background of the case included in the decision? | Yes/No/Comments |
| If review hearing, does decision make reference to previous facts? | Yes/No/Comments/Not review hearing |
| Is it a stand alone decision? | Yes/No/Comments |
| Are there adequate reasons for the decision? | Yes/No/Comments |

| | |
|--|-----------------|
| Conclusions on submissions (adjourned, facts, admissibility) | Yes/No/Comments |
| Does it clearly set out the finding of facts (including disputed and undisputed facts and if disputed, why decision was made) | Yes/No/Comments |

3. Order

| | |
|--|---|
| What was the panel's decision? | Not well founded/ no further action/ mediation/ caution/ conditions/ suspension/ striking off |
| How long was the sanction imposed for? | |
| Does the order accord with sanction policy? | Yes/No/Comments |
| Does it state the operative date of the order? | Yes/No/Comments |
| Does it state the end date of the order? | Yes/No/Comments |
| If conditions imposed: | |
| - are they realistic (is the registrant able to comply)? | Yes/No/Comments |
| - are they verifiable (are dates on which information is due specific and clear)? | Yes/No/Comments |
| - are they imposed on anyone other than the registrant? | Yes/No/Comments |

4. Policy issues

Are there any emerging policy issues?

Audited by:

Date: