

Tribunal Advisory Committee

Public minutes of the 4th meeting of the Tribunal Advisory Committee held on:-

Date: Monday 19 February 2018

Time: 1pm

Venue: Room D&G, Health and Care Professions Council, Park House,
184 Kennington Park Road, London SE11 4BU

Present: Graham Aitken
Catherine Boyd
Philip Geering
Shelia Hollingworth
Alan Kershaw
Marcia Saunders (Chair)

In attendance:

Claire Amor, Secretary to the Committee
Claire Baker, Tribunal Services Manager - Hearings
Catherine Beevis, FTP Operational Manager
Brian James, Acting Head of Tribunal Services
Zoe Maguire, Head of Tribunal Services
Deborah Oluwole, Tribunal Services Manager – Scheduling
Uta Pollmann, Partners and HR Manager

Public

Item 1. Chair's welcome and introduction

- 1.1 The Chair welcomed Committee members and the Executive to the fourth meeting of the Tribunal Advisory Committee.
- 1.2 The Committee discussed the balance needed in engagement from members between meetings.
- 1.3 Tribunal hearing specific feedback was discussed and the channels appropriate for this feedback. It was noted that some members did not feel the process for raising concerns or giving feedback is clear, in particular the availability of feedback forms in hearing rooms was not seen as consistent.
- 1.4 The Committee noted that the Partner and HCPTS teams are working to produce a one page guide on how to raise concerns or give feedback aimed at all parties involved in hearings. This will be shared with the Committee when completed. In addition, the next Partner newsletter will focus on feedback and the routes available to provide this.
- 1.5 The Chair and Committee welcomed Zoe Maguire to the meeting. It was noted that Zoe has returned to her post as Head of Tribunal Services following a period of maternity leave. The Committee thanked Brian James for his invaluable contribution and support as Acting Head of Tribunal Services in the establishment of the Tribunal Advisory Committee.

Item 2. Apologies for absence

- 2.1 No apologies were received.

Item 3. Approval of agenda

- 3.1 The Committee approved the agenda.

Item 4. Declarations of members' interests

- 4.1 Graham Aitken, Catherine Boyd and Philip Geering declared an interest in the meeting on 16 November 2017. The Committee agreed that this would remain a standing declaration of interest due to the nature of the Committee's remit. There were no other declarations of interest.

Item 5. Minutes of the Tribunal Advisory Committee meeting of 16 November 2017 (report ref: TAC 01/18)

- 5.1 The Committee received the draft minutes from its meeting held on 16 November 2017.

5.2 The Committee agreed the minutes.

Item 6. Matters arising (report ref: TAC 02/18)

6.1 The Committee noted the matters arising from its meeting of 16 November 2017.

6.2 The Committee agreed that a forward work programme and record of advice given or matters where information or assurance are sought is separate from matters arising. It was agreed that the Executive and Chair would develop a framework for tracking all outputs from Committee discussion.

Item 7.i. Head of Tribunal Services report (report ref: TAC 03/18)

7.i.1 The Committee received a report from the Head of Tribunal Services.

7.i.2 The Committee noted the following points:-

- we have concluded our testing of skype enabled video conference for complex hearings. The approach and use of technology has been such that we have now gone live, and have used it in a number of hearings;
- an emerging trend is for panels to direct “Panel-only” days when a hearing does not conclude. The Executive is reviewing these decisions on a case by case basis, and discussing the issues with the relevant Chairs and Legal Assessors;
- the HCPC’s policy on investigating health concerns is being reviewed in response to the recent PSA performance review. The policy will be presented for discussion at the March Council;
- the impact of short reviewable sanctions on both the registrant and HCPTS has been a major theme in the recent Partner Newsletter and Panel training sessions. There is some evidence to show that there are changes in this pattern, although it is too early to conclude definitively if this is significant;
- the two most recent refresher training events have scored very highly on participant engagement and enjoyment and particularly positive feedback has been on the focus on interactivity; and
- the HCPTS team has undertaken refresher mental health awareness training, in order to sensitively deal with parties that are anxious, or have a known mental health issue.

7.i.3 The Committee discussed the recent trend of adjournment cases being directed to resume on Panel-only days. It was noted that the Executive is

currently reviewing all adjournment cases and will present its findings to a future meeting of the Committee.

- 7.i.4 The Committee recommended that the recent mental health refresher training undertaken by the HCPTS team should be extended to Panel training, as this is a challenging area for Panels to manage.
- 7.i.5 The Committee received an update on the trial of a Survey Monkey pilot for Panel Chair feedback following the conclusion of each final hearing. It was noted that the aim of this survey was a proportional and pragmatic approach to getting feedback and test of feasibility with a view to wider roll out to Panels.
- 7.i.6 The Committee noted that the Executive has found that managing this process using data from the existing Case Management System (which was not designed to support survey technology, and required manual reporting) has been more resource intensive than expected and that the time taken to set up, send and monitor the surveys was significant. There were no significant issues raised in relation to any individuals associated with the completed surveys
- 7.i.7 The rate of compliance with the survey varied greatly from individual to individual. Some Panel Members opted out of receiving future surveys (as part of the Survey Monkey software) meaning that on subsequent hearings, a survey could not be sent. The Executive suggested that a sample of hearings could be selected for all participants to feedback on as an alternative approach. Panel members could request that a hearing undergoes this enhanced feedback if they had concerns.
- 7.i.8 The Committee agreed that the trial of the survey as originally intended should continue and that less labour intensive methods should be investigated. It was suggested that hearings officers could send out surveys as part of the post hearing process.
- 7.i.9 The Committee agreed that opting out of the surveys was not acceptable and that the Executive should reemphasise the compulsory nature of the feedback and follow up with those opting out.
- 7.i.10 The Committee noted that if the 2 year reappointment process was replaced with a system based on building the competency framework into regular feedback processes, the Partner team would have capacity to support 360 degree feedback collection. It was noted that the Committee is able to make recommendations to the Council on such a change in approach and it was agreed to advise the Council accordingly. It was noted that it is important to maintain the clear separation of performance feedback and process feedback.
- 7.i.11 The Committee noted the update.

Item 7.ii. Partner team operational report (report ref: TAC 04/18)

7.ii.1 The Committee received a report from the Partners and HR Manager.

7.ii.2 The Committee noted the following points:-

- the Partner Portal was launched to partners on 25 January 2018. The new system will enhance automation of recruitment and selection, training, appraisals and appointment renewals. It allows partners to change their contact details, book unavailability and book refresher training;
- the legal assessor campaign received 250 applications, a very positive response with the quality of applications being high. The campaign was advertised in the Law Gazette and Diversity Jobs to reach a broad cohort of applicants. The assessment of those successful at shortlisting stage will include an interview and, for the first time, a case study;
- the new FTP training has received overall very positive feedback from delegates. Its focus is on learning from the recent PSA audit and internal audits including decision making at the ICP and final hearing stage, short reviewable sanctions and exploring reasons and impact for these; and
- the new self-assessment form has been successfully trialed. All three panel members were successful and provided positive feedback about the new self-assessment.

7.ii.3 The Committee discussed the introduction of computer based learning modules for registrant assessor training. It was noted that this had reduced the time taken to induct new assessors. The Committee noted that the Partners team is exploring the use of a computer based equality and diversity 'foundation module' to allow group based training in this area to focus more in reflection on unconscious bias.

7.ii.4 The Committee suggested that health and character declarations should be extended to Panel members. It was agreed that the Executive would review this and return to the Committee at its meeting in May 2018 with a recommendation.

7.ii.5 The Committee noted the contents of the report.

Item 8. Review of Practice Notes (report ref: TAC 05/18)

8.1 The Committee received a paper from the Head of Tribunal Services.

8.2 The Committee noted that changes are proposed to the Discontinuance of Proceedings and Disposal of Cases by Consent PNs. The review of these PNs has included learning points and feedback provided by the

Professional Standards Authority, and follows a plan of activity set out within the subsequent Fitness to Practise Improvement plan, discussed by Council. Supporting guidance is also under review.

8.3 The Committee noted the following points:-

- the focus of the changes to the PNs relate to the addition of a skeleton argument in every case, setting out the reasons for the HCPC's application to discontinue an allegation or recommendation to dispose of a matter by consent;
- the revised versions of the PNs clarify that Practice Committees need to be satisfied that the HCPC has proper grounds for seeking to dispose of an allegation by way of consent or discontinuance; and
- proposed amendments to the PN dealing with consent also clarify that a Panel of the relevant Practice Committee may conclude a case on an expedited basis, following a review of the terms of the draft Consent Order and supporting skeleton argument put before it by the HCPC.

8.4 The Committee discussed the Discontinuance of Proceedings PN. The following amendments were agreed:-

- 'partisan' is not a suitable word and should be revised focusing instead on public protection;
- reference to evidence in the introduction section should be 'material evidence';
- on page 2 the sentence beginning 'In order to be satisfied' should be revised to state that it is not the Panel's task to re-consider the decision reached by ICP; and
- the final paragraph, 'the effect of discountenance' requirement that a panel makes a formal finding of no case to answer should be re-considered, as this may unnecessarily prevent the HCPC from looking into new material evidence in future. It was agreed that the Executive would refer this point to the HCPC's special counsel.

8.5 The Committee discussed the Disposal of Cases by Consent PN. The following amendments were agreed:-

- the introduction requires a more positive emphasis on the benefits to parties rather than focus solely on the procedural efficiencies;
- a reference to the restoration to the register process should be included;

- the issue of publication and publicly available information should be included in the PN; and
- skeleton arguments should be included for voluntary disposal cases.

8.6 The Committee approved the changes to the discontinuance and consent Practice Notes subject to the amendments agreed in paragraph 8.4 and 8.5.

Item 9. Conflict of Interest Policy (report ref: TAC 06/18)

9.1 The Committee received a paper from the Partners and HR Manager.

9.2 The Committee noted that the Partner team plans to introduce a Conflict of Interest Policy. A draft was presented setting out the expectations regarding real or potential conflicts of interest and the process for dealing with a conflict of interest raised in relation to a partner.

9.3 The Committee agreed the following points when discussing the draft policy:-

- the aims of the policy outlined in section 7 and 8 should be earlier in the policy;
- sections 13 and 15 should be combined and section 14 is repetitive and should be removed;
- reference to supporting operational guidelines should be removed from the form;
- past and present conflicts are sought, the emphasis should be on present conflicts and a time frame for declaration of past conflicts should be included; and
- an annual reminder to update declarations of interest would be proportionate and could be included as a reminder in a Partner newsletter.

9.4 The Committee noted that a prompt for any conflict of interest declarations is undertaken each time a hearing bundle is provided to a Panel member

9.5 The Committee agreed to recommend the Conflict of Interest Policy to Council for approval subject to the amendments agreed in paragraph 9.3.

Item 10. Selection and Appointment Policy (report ref: TAC 07/18)

10.1 The Committee received a paper from the Partners and HR Manager.

- 10.2 The Committee noted that the Partner team has reviewed the current Appointment and Selection Policy. The new draft before the Committee reflects recent changes to the application process and introduces guidance around assessment centres.
- 10.3 The Committee agreed that the policy should be separated into two documents, operational guidance and a high level policy. Members agreed to provide feedback on the policy to the HR and Partner Manager over the next two weeks. A revised policy will then be circulated by email.
- 10.4 The Committee discussed the use of interview scoring and other information in selection decisions. It was noted that currently assessment scoring is the sole basis of appointment, this is seen to be equitable and fair when appointing to a number of roles. Some concern was expressed that this may disadvantage applicants not as 'polished' in promoting themselves. It was agreed that this area would be discussed by the Committee in more depth at a future meeting.
- 10.5 The Committee members agreed to comment further on the revised version with a view to subsequent consideration for submission to Council.

Item 11. First Tribunal Advisory Committee annual report to Council

- 11.1 The Chair of the Committee introduced this item. The Committee noted that it was approaching one year since its establishment and that the Committee had agreed to report to Council annually on its operation
- 11.2 The Committee agreed that the following information should be included in the annual report;
- Context and background
 - Progress against each of the terms of reference items
 - 3 year plan deliverables
 - Reference to TAC in PSA performance report response
 - Attendance and remuneration
 - Officer support arrangements
- 11.3 It was agreed that the Executive in conjunction with the Chair would provide a draft for the Committee's May 2018 meeting. It was anticipated that draft could be exposed to 360 feedback from officers, members and the Chair and CEO of the Council, as previously discussed, and that the final version would be presented to Council by the Committee Chair as well as incorporated as appropriate into the HCPTS Annual Report.

Item 12. Tribunal Advisory Committee 3 year plan update

- 12.1 The Acting Head of Tribunal Services and the Partner and HR manager provided a brief presentation on the next steps for the Committee's 3 year plan.

12.2 The Committee noted the key deliverable headings as follows:-

- Competence framework
- Recruitment and guidance
- Learning
- Feedback and assessment
- Potential developments

Item 13. PSA performance report response plan (report ref: TAC 08/18)

- 13.1 The Committee received a paper from the Acting Head of Tribunal Services.
- 13.2 The Committee noted that at its meeting in November 2017, it was noted that PSA had recently published its performance review for the HCPC. The Executive have now developed an initial action plan, addressing all of the key areas covered in the PSA Performance Review report. This paper was discussed at Council in December.
- 13.3 Since December, the FTP operational team has been working with others in the organisation, to further develop this plan. These developments, and progress against them, will be discussed at the Executive and Council in the coming months.
- 13.4 The Committee discussed plans for ICP only Panel Chairs. It was noted that a decision on this had not yet been taken. The independence of the HCPTS was also discussed, and the Committee noted that the HCPTS provides a venue and logistical support only for ICP hearings.
- 13.5 The Committee discussed the PSA's view on health assessments and the triggers for these. The Committee considered that it was disproportionate
- 13.6 The Committee agreed that a briefing on how triage and risk assessments are conducted at the HCPC would be useful.
- 13.7 The Committee noted the paper.

Item 14. Future agenda items

- Annual report
- Revised PN timetable & proceeding in absence PN
- Indicative sanctions policy consultation
- Forward programme paper

Item 15. Any other business

- 15.1 There was no further business.

Item 16. Date & time of next meeting:

16.1 Tuesday 30 May 2018 1pm

Chair Marcia Saunders

Date 30/05/2018