

APPENDIX 1 – LETTER FROM MARC SEALE

HPC assessment decisions and registration appeals

Dear Assessor,

I am writing to you, and all the other HPC registration assessors, to thank you for your work for HPC and to update you on the new HPC registration and registration appeals processes.

The new registration process has now been operating for almost a year and we are generally pleased with progress to date. The system is operating smoothly and, currently, assessment decisions are being made in a matter of weeks. Inevitably there have been some teething problems, one of which is a significant number of appeals against assessment decisions.

Since the HPC Register opened on 9th July 2003, we have received 286 registration appeals, of which 204 are against assessment decisions made under the new process and 82 against assessment decisions made under the CPSM registration process. From the cases which have been considered so far a number of common problems have been identified which, if they are addressed by registration assessors, will significantly reduce the appeal caseload.

In order to control costs the Council takes legal advice on each appeal, in order to avoid taking appeals to a hearing when there is no realistic prospect of being able to sustain the original decision. Out of the first 100 registration appeal cases we were advised that in fourteen cases there was no realistic prospect of sustaining the original decision and were advised to either register the appellant or re-consider the application.

Appeals take some time to come before the new Appeal Panel and to date they have heard nine cases, the outcomes of which are as follows:

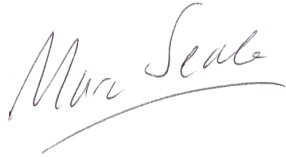
PROFESSION	SURNAME	PANEL DECISION
RA	Sio	Appeal allowed
RA	Pakingan	Appeal allowed
RA	Kamatoy	Appeal allowed
PH	Neelamegan	Appeal allowed
PH	Kerr	Appeal allowed
PA	Kilner	Appeal allowed
PH	Roy	Dismissed
PH	Phatak	Dismissed
CH	Sturgess	Remitted to the ETC

From the advice we have received on the first 100 cases and from the decisions reached by the Appeal Panel a number of common problems have been identified:

1. Assessors do not always set out adequate reasons for their decisions, which means that applicants have no proper understanding of the decision reached. For public authorities, giving reasoned decisions is a fundamental requirement under the Human Rights Act 1998. Examples include assessments where shortfalls have been described as “self evident” rather than reasoned and where the applicant’s training and experience has been described as “not making up the shortfalls in the course” but where the assessors have not identified the shortfalls in that course.
2. Applications under the “grandparenting” regime are being rejected solely on the grounds that case studies provided by the applicants are insufficiently detailed or not in a format which the assessors expect. The provision of case studies by grandparenting applicants is not a mandatory requirement and rejection on that ground alone is unlikely to be regarded by the courts as a proper discharge of the Council’s functions.
3. Assessors are raising as a concern, and therefore as a ground for rejection, that international applicants do not have knowledge of relevant UK legislation. This is not a valid ground for rejection as it is a misinterpretation of Standard 1.a.1 of the Standards of Proficiency which requires applicants to have knowledge of *current* legislation; that is the legislation currently in force in the jurisdiction where they work or have trained. The standard was specifically written in this way to take account of the fact the UK-trained registrants may well be practising abroad and, if subject to fitness to practise proceedings would be expected to show knowledge of the applicable local legislation.
4. Assessment records often appear to draw inferences from whether or not an applicant has participated in a continuing professional development programme. Whilst CPD may provide evidence to address an identified shortfall, failure to undertake CPD is not a ground for rejecting an application as participation in a CPD programme is currently not a mandatory requirement for registration.
5. Assessors are asking for tests of competence to be undertaken without identifying the reasons for that test and, in some instances, where the record of assessment shows that the assessors have already concluded that the applicant lacks a particular skill or knowledge.
6. Equally, assessors must avoid assuming that an absence of information equates to an absence of knowledge. A substantial number of the appeals have been accompanied by hundreds of pages of documentation as proof that an international applicant with a degree in the relevant subject has basic skills or knowledge.

I hope you find this feedback helpful. We look forward to seeing you at our first Partners Conference which we will be holding in Manchester on 23rd and 24th October.

Yours Sincerely,

A handwritten signature in cursive script that reads "Marc Seale". The signature is written in black ink and is positioned above a horizontal line that underlines the name.

Marc Seale
Chief Executive and Registrar