

Tribunal Advisory Committee

Public minutes of the 8th meeting of the Tribunal Advisory Committee held on:-

Date: Wednesday 27 February 2019

Time: 1pm

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

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

In attendance:

Claire Amor, Secretary to the Committee
Tehmina Ansari – FTP Learning Consultant (item 1-7)
Claire Baker, Tribunal Services Manager – Hearings
Zoe Maguire, Head of Tribunal Services
Deborah Oluwole, Tribunal Services Manager – Scheduling
Uta Pollmann, Partners and HR Manager
Brian James, Head of FTP (item 1-8)

Public

Item 1. Chair's welcome and introduction

- 1.1 The Chair welcomed Committee members and the Executive to the eighth meeting of the Tribunal Advisory Committee.
- 1.2 The Committee noted that the HCPC has appointed a new Chair of Council, Christine Elliott. The Chair of the Committee would meet to discuss the role of TAC with the new Chair once she takes office

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

- 4.2 Graham Aitken, Catherine Boyd and Philip Geering have declared a standing interest as sitting panel chairs 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 14 November 2018 (report ref: TAC 01/19)

- 5.1 The Committee agreed the minutes from its meeting held on 14 November 2018.

Item 6. Matters arising (report ref: TAC 02/19)

- 6.1 The Committee noted the matters arising from its meeting of 14 November 2018.
- 6.2 The Committee discussed the issue of the HCPC's registrant diversity monitoring. It was noted that the Council had considered a paper on this matter in December 2019. It was agreed this paper would be circulated to members. The Committee reiterated its advice to Council that the HCPC's current limitations on registrant diversity monitoring information poses a reputational risk and should be addressed.

Item 7. Demonstration of Partner E-Learning Module

7.1 The FTP Learning and Development Consultant provided the Committee with a demonstration of the new induction e-learning module for new panel members.

- new panel members will complete the online induction before the face to face two day training;
- new panel members also have the opportunity to observe a hearing before sitting on a panel;
- completion of the online induction is tracked by the Executive and there is a compulsory assessment at the end which panel members must pass;
- completing the induction is a requirement before a member can sit on a panel;
- current panel members will also have access to the module as a refresher resource;
- a similar module is being developed for the new indicative sanctions policy, this will be scenario based; and
- e-learning is also being used for non FTP partners and FTP employees.

7.2 The Committee advised content should ensure consistency with recently reviewed Practice Notes (PNs).

7.3 It was agreed that Committee members would be sent a link to the module to explore further.

7.4 The Committee thanked Tehmina for an informative demonstration and agreed the new module was a valuable addition to new panel member training.

Item 8. FTP annual report

8.1 The Head of Fitness to Practise provided the Committee with a presentation on the context of the Fitness to Practise departments work in 2019-20. The Committee noted the following points:-

- case numbers have been increasing, the majority of the increase are social worker concerns, which tend to be more complex cases with members of the public or service users as the complainant;
- the case to answer rate has increased, impacted by the new threshold policy. This has increased ICP volumes;

- the average length of hearings has increase by one day from 3 to 4 days on average;
- 2019-20 will see the transfer of social work case to the new regulator;
- improvement project changes will undergo a 3 and 6 month review
Efficiency reviews in 2019-20 will include a trial of electronic bundles, fast track interim orders and retendering the contract for legal services supplier; and
- work will also start on scoping a replacement for the current case management system.

8.2 In response to a question the Committee noted that there is no indication that incoming cases are being delayed as a result of focused activity to progress older case.

8.3 The Committee discussed the plan for a pilot of paperless hearings. The Committee asked if virtual hearings had been explored. It was noted that tribunals are making greater use of video conferencing, and that the Committee would be consulted should virtual hearings be explored in future.

8.4 the Head of FTP agreed to circulate his presentation slides to the Committee.

8.5 The Head of FTP sought the Committee's view on a recently raised panel member conflict of interest issue. This related to whether panel members could represent HCPC registrants in tribunals when not sitting on that case. Legal advice had been sought which advised this would be a conflict of interest. The Committee agreed with this advice, noting that the professional connections panel members make with each other could damage the perception of the panel's independence should a member represent a registrant. The Committee agreed that the conflict of interest policy should be amended to cover this issue, and that it should be made clear in recruitment.

Item 9. Head of Tribunal Services report (report ref: TAC 03/19)

9.1 The Committee received a report from the Head of Tribunal Services.

9.2 The Committee noted the following points:-

- adjourned or part heard hearings have decreased, and the current numbers are below anticipated levels;
- the number of hearings that are not well found remain slightly higher than expected and the reasons for this are being reviewed;

- the programme of improvement work that was aimed at addressing the concerns raised by the PSA is now coming to an end; and
- the new concerns threshold policy was launched on 14 January; and
- the pilot to explore the use of specialised ICP Chairs is underway with five existing Panel Chairs. The pilot's progress will be reviewed early in the new financial year.

9.7 The Committee requested that a brief summary of the content of PSA learning points is provided in future reports.

9.8 The Tribunal Services Managers demonstrated the new information pages, soon to go live, developed to provide guidance to registrants, particularly unrepresented registrants, on the tribunal process.

9.9 The Committee noted that this work aims to encourage engagement by registrants and is a starting point for further guidance and information to be added to in coming months. The Committee agreed that the guidance is very useful. It was noted that the next Partner newsletter will include a summary of this work, and it is intended registrants are alerted to the information at the early stages of an investigation.

Item 10. Partner team operational report (report ref: TAC 04/19)

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

10.2 The Committee noted the following points:-

- the Partner Portal upgrade business case is awaiting the Council's budget approval in March 2019. This will be a major project for the Partner team during 2019-20;
- a recent registrant panel member campaign for psychologists resulted in a low number of appointments. This is challenging profession to recruit. The campaign will be re-run; and
- 27 panel member and chairs are coming to the end of their second term with the majority finishing by May 2019. Due to the eight year rule for panel members these contracts cannot be extended until social worker cases are transferred at the end of 2019.

10.3 The Committee discussed the recent lay panel member recruitment campaign. The following points were noted:-

- the application form character limit was increased from 2,000 to 4,000 characters, following feedback from previous applicants.

The Executive also wanted to ensure the best candidates progressed through the shortlisting stage and the character limit was seen as a potential barrier to this;

- 133 applicants were shortlisted and 26 were invited to interview;
- six lay panel members were sought and eight were appointed due to the very high quality of candidates; and
- a survey was sent to all successful and unsuccessful candidates who reached interview stage. Positive feedback was received from unsuccessful candidates which is particularly encouraging.

10.4 In response to a question the Committee noted that Panel Chairs had been used previously to sit on recruitment panels for new panel members. However, this was not effective in ensuring calibration of assessments. A FTP recruitment partner is now in place to ensure consistency and an independent perspective throughout the process.

10.5 The Committee discussed the FTP working group formed to review the performance appraisal process for panel members and legal assessors. The following points were noted:-

- the first meeting of the group took place on 5 December 2018. The group consists of two panel chairs, one panel member, the Partner Manager, the Tribunal Services Managers and the FTP Learning and Development Consultant;
- the group agreed that multi source feedback is the most effective model and should be explored;
- other regulators models were looked at with the understanding that any new approach at the HCPC needed to be cost effective;
- the group agreed that guidance is key to a new appraisal system succeeding; and
- the Executive recommends that the panel member self-assessment process be discontinued and a new system be developed.

10.6 The Committee discussed the appraisal of legal assessors. It was noted that the Committee had previously agreed that legal assessors should undergo performance appraisals, but that this would commence once a new system is in place to prevent disengagement due to the difficulties of the current system.

10.7 The Committee agreed that any new approach will be undermined if action is not taken on poor performance. The Executive agreed and noted that work in this area has increased over the past year.

- 10.8 The Committee agreed that where panel members have significant concerns about the performance of another panel member, a discussion with the Executive should be available rather than needing to submit a form. Guidance provided makes it clear that the Executive is available to discuss any concerns.
- 10.9 The Committee agreed that any new system should ensure panel members can see what is documented about them to ensure transparency.
- 10.10 The Committee asked how long it would be between the discontinuance of the current system and the introduction of a new one. It was noted that bi-annual peer review process will remain in place in the interim.
- 10.11 The Committee discussed the risk of ending the self-assessment process. It was noted that significant issues are not picked up through the self-assessment process, and that it had led to resignations last year due to the burdensome nature of the process. The Committee agreed to recommend to Council that the self-assessment process for panel members is discontinued.
- 10.12 The Committee agreed to receive a 'next steps' report at its next meeting in May 2019.

Item 11. Practice Notes format and consistency (report ref: TAC 05/19)

- 11.1 The Committee noted its discussions on the principles that should be applied to developing a revised approach to the format of PNs, have been incorporated into the report. In addition, a summary of all PNs has been provided to the Committee to enable feedback on future review prioritisation.
- 11.2 Members agreed to provide feedback to the Head of Tribunal Services on prioritisation, to enable a plan to come to the Committee's May 2019 meeting.

Item 12. Review of Practice Notes - Unrepresented Registrants (report ref: TAC 06/19)

- 12.1 The Committee received a paper from the Head of Tribunal Services. The Committee noted that the Unrepresented Registrants PN has been reviewed in conjunction with the guidance and information work being undertaken in this area.
- 12.2 The Committee agreed that the introduction to the PN contained detailed guidance, not suitable for the introduction and should consist of a statement of the PN's purpose.

- 12.3 The Committee agreed that the PN should convey that assumptions should not be made about an unrepresented registrant's lack of understanding of the hearings process.
- 12.4 The Committee agreed that the PN should note the limitations of the legal assessor in providing legal advice to the panel.
- 12.5 The Committee asked that the content of online guidance and information be reviewed for consistency with the PN.
- 12.6 The Committee agreed to submit comments on the PN to the Head of Tribunal Services and agree a final version of the PN by correspondence.

Item 13. Implementation of the new Sanctions Policy (report ref: TAC 07/19)

- 13.1 The Committee received a paper from the Policy Manager on the recently approved revised indicative sanctions policy.
- 13.2 The Policy Manager advised that paragraph 97 of the policy had been removed by the Council as it considered it was redundant in light of paragraph 96.
- 13.3 The Committee asked if it should have been consulted before the final policy was submitted to Council for approval. It was noted that the Committee was consulted in scoping the public consultation, and was a consultation respondent. The Committee raised the question of how the Committee could engage purposefully in consultations. The Executive noted the Committee's point for future relevant consultations.
- 13.4 The Committee noted that an e-learning module will accompany the implementation and all panel members will be required to complete the module and end assessment. In response to a question it was noted that the e-learning system has an integrated learning feedback function.
- 13.5 The Committee asked how the success of the new policy will be assessed. It was agreed that this would be reported back to the Committee at its May 2019 meeting.
- 13.6 The Committee noted that a communications plan will accompany the implementation of the new policy. This includes professional bodies and Unions. The Committee suggested that the Association of Regulatory and Disciplinary Lawyers is a key organisation to engage with on the new policy.
- 13.7 The Committee emphasised the importance of the policy being available in all hearing rooms for reference.
- 13.8 The Committee acknowledged the huge amount of work undertaken in delivering the new policy and thanked the Policy Team for taking on board the Committees feedback with rationale in the development of the

policy. The Committee would continue to consider its role in appropriate consultations.

Item 14. Any other business

14.1 There was no further business.

Item 15. Forward planning (report ref: TAC 08/19)

15.1 The Committee noted it's forward planning framework document and recent updates to it. It was noted that further updates from the Head of Tribunal Services would be included in the version considered at the May 2019 meeting.

Item 16. Future meetings in 2019:

- 29 May
- 17 September
- 12 November

Chair Marcia Saunders

Date 29.05.2019