

Tribunal Advisory Committee

Public minutes of the 9th meeting of the Tribunal Advisory Committee held on:-

Date: Wednesday 29 May 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
Zoe Maguire, Head of Tribunal Services
Deborah Oluwole, Tribunal Services Manager – Scheduling
Uta Pollmann, Partners and HR Manager

Public agenda

Item 1. Chair's welcome and introduction

- 1.1 The Chair welcomed Committee members and the Executive to the ninth meeting of the Tribunal Advisory Committee.
- 1.2 The Committee noted that the Chair met with Christine Elliott, the new Chair of Council, to discuss the role of the Committee and its importance in enhancing the independence of the HCPTS.
- 1.3 The Chair attended the March meeting of the Council and encouraged further consideration of the use of the Committee to provide advice on tribunal related matters.
- 1.4 The Committee noted that Sheila Hollingworth had been reappointed as a lay Committee member by the Council for a term of four years to 31 July 2023, this followed a positive performance appraisal with the Chair. The Chair advised that performance appraisals would initiate for all members shortly.
- 1.5 The Committee noted that the Chair and Member Phillip Geering recently attended a PSA conference which included discussions on the duty of candour, assuring public confidence in regulators and matters relating to systems failure.

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 27 February 2019 (report ref: TAC 09/19)

- 5.1 The Committee agreed the minutes from its meeting held on 27 February 2019.

Item 6. Matters arising (report ref: TAC 10/19)

- 6.1 The Committee noted the matters arising from its meeting of 27 February 2019.

- 6.2 The Committee requested an update on the transfer of social worker regulation to Social Work England. It was noted that data transfer agreements had been signed, but that no further clarity had been provided on the date of the transfer.
- 6.3 The Head of Tribunal Services spoke to matter arising six. It was noted that the Tribunal Service team would collate all feedback received on the new Indicative Sanctions Policy to inform any future review. Additionally the HCPC's Quality Assurance Department would continue to undertake audits on final hearing decisions. It was agreed that the results of these audits should in future be brought to the Committee.
- 6.4 It was noted that Committee members who had taken part in the pilot of the e-learning module had outstanding concerns and it was agreed that these would be picked up with the Partner and HR manager outside the meeting with a view to identifying a way forward.

Item 7. Head of Tribunal Services report (report ref: TAC 11/19)

- 7.1 The Committee received a report from the Head of Tribunal Services.
- 7.2 The Committee noted the following points:-
- 156 fewer cases were concluded in 2018-19 when compared to the previous year;
 - 43% of all concluded cases resulted in either a strike off or suspension order and 30% of cases were not well founded which was 22% higher than the previous year. The Executive are reviewing the reasons for this increase;
 - part heard or adjourned cases were within forecast levels;
 - the HCPC/HCPTS Decision Review Group met in April 2019 to review the quality of case management and decision making by Panels. The adjudication development group also met in early May;
 - a mid-point review of the pilot to explore the use of Panel Chairs who specialise in Investigating Committee Panels has been undertaken;
 - in preparation for the anticipated transfer of social worker regulation, social work cases will not be listed after October 2019; and
 - the PSA attended recent Legal Assessor training to provide an overview of their role. This was positively received and will be included in future training sessions.

- 7.3 The Committee requested that the Executive report on the findings of its review of not well founded cases.
- 7.4 The Committee noted that, due to improvements made to the scheduling processes as well as ensuring appropriate oversight of teams, the team has reduced the time taken to schedule a hearing from the point of it being ready to fix by around 8 weeks which has made a significant contribution to the department's aim of reducing the overall length of time of cases.
- 7.5 In response to a question it was noted that the optimal length of time for a case was 15 months, which was being met for non-social work cases.
- 7.6 The Committee discussed the midpoint review of the ICP Chair pilot. It was noted that the review found that there was no significant difference between the numbers of cases that were adjourned for further information amongst both groups. No significant differences in the quality or outcomes of cases between the ICP specialist and other Panel Chairs had been identified; however, a further review would be undertaken in three months.
- 7.7 A member noted that their experience of the investigation reports provided to the ICP was that these reports varied in quality.

Item 8. Partner team operational report (report ref: TAC 12/19)

- 8.1 The Committee received a paper from the Partners and HR Manager.
- 8.2 The Committee noted the following points:-
- the Partner Portal upgrade will start in September 2019 as the decision was made to wait until the newest version will become available;
 - six resignations were received in March and April due to retirement or work commitments, and nine panel members came to the end of their 8 year limit in March; and
 - recent recruitment for psychologist Partners was run twice due to low numbers of appointed candidates. The full complement was thus reached.
- 8.3 The Committee noted that the Council had agreed to discontinue the Partner self-assessment element of the reappointment process as recommended by the Committee.

Item 9. Performance review FTP working group (report ref: TAC 15/19)

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

- 9.2 The Committee noted that the FTP working group formed to review the performance appraisal process for FTP partners had recommended the use of a Kallidus platform. The Group agreed that the platform was user friendly, professional and had an excellent reporting tool.
- 9.3 The Committee reviewed a sample report from the Kallidus system and noted the following points:-
- the content of the system was fully customisable and would continue to be refined;
 - whilst the feedback on the system is anonymous, those being assessed would be would know the group of three FTP partners and the legal assessor involved in the hearing selected for feedback;
 - the system could track progress over a number of assessments for FTP partners and provide a historical review of assessment results; and
 - the platform works on an adaptable licence model so that the Executive can increase or decrease the number of assessments as needed.
- 9.4 The Committee discussed how often FTP partners would be assessed. It was noted that this would be linked to hearing activity.
- 9.5 The Committee provided the following feedback:-
- numerical ratings should be avoided;
 - when a low score is entered for a statement, a comment should be required; and
 - adequate guidance on how to approach the assessment would be key to its success.
- 9.6 The Committee welcomed the proposed adoption of the Kallidus platform. It was noted that the Executive would set up the questionnaires by end of July and run user testing through August and September. A pilot would then take place for a six month period from October to February 2020 with the aim of a full launch in April 2020.

Item 10. Tribunal Advisory Committee annual report (report ref: TAC 13/19)

- 10.1 The Committee noted that the second Tribunal Advisory Committee annual report would be presented to the Council at its July 2019 meeting. The Chair would attend to speak to the report.

- 10.3 The Committee noted that members had provided input into the annual report by correspondence.
- 10.4 It was agreed that paragraph numbers would be applied to the report. With minor revisions, the report was agreed.

Item 11. Practice Notes (report ref: TAC 14/19)

- 11.1 The Committee received a paper from the Head of Tribunal Services.
- 11.2 The Committee agreed that both the Finding Fitness to Practise Impaired and Drafting Decisions PNs required a longer timescale for review given the scale of the changes required and their importance. The Committee proposed that the PNs be drafted as new documents rather than amending the current versions.
- 11.3 The Committee agreed that the conditions bank should be removed from the Drafting Decisions PN, but should be retained in a more prominent position separately and regularly updated.
- 11.4 The Committee agreed that the final hearing decision tree diagram was useful but did not fit in the drafting decisions PN.
- 11.5 The Committee discussed the inclusion of case law references in the PNs it was noted that the indicative sanctions policy did not include case law. Members felt that removing these references would make the PNs more accessible and would extend their relevance when case law changed. However it was noted that the Executive would need to review this proposal as the PNs also provided guidance to unrepresented registrants who may be impacted by removing reference to case law.
- 11.6 The Committee noted that the term 'plain English' had specific standards attached and should not be used.
- 11.7 Members agreed to provide feedback on the PN's to the Head of Tribunal Services. A paper would then be brought to the September meeting of the Committee outlining proposals for the review.

Item 12. Data and intelligence (report ref: TAC 16/19)

- 12.1 The Committee received a paper from the Head of Policy and Standards.
- 12.2 The Committee noted that, in December 2018, the Council agreed an aspirational framework to improve the HCPC's use of data. However, the ability to undertake this work is dependent on the implementation of a new Data and Intelligence team which relies on budget availability. A decision is still awaited on the HCPC's proposal to increase its fees to enable such investment.

- 12.3 The Committee noted that the Policy team are working with the Projects department to develop an interim data collection method for equality monitoring in the form of a survey that is sent to registrants following registration or renewal. Registrants will be informed upfront about what the HCPC will do with the data and how important it is to ensure the HCPC can understand the diversity of its registrant population.
- 12.4 In the longer term the new registration and case management systems in development will integrate this functionality and facilitate the analysis of data.
- 12.5 The Committee noted that the PSA had introduced a new standard focused in this area. It considered that the HCPC's data analysis limitations posed a reputational risk. The Committee welcomed the planned improvements in this area and encouraged ongoing investment.

Item 13. Any other business

- 13.1 There was no further business.

Item 15. Forward planning (report ref: TAC 17/19)

- 15.1 The Committee agreed to hold an informal session on forward planning at 11.30am before its meeting at 1pm on 17 September.

Item 16. Future meetings in 2019:

- 17 September
- 12 November

Chair.....

Date.....