

Tribunal Advisory Committee, 17 September 2019

Tribunal Services Report

### **Executive summary**

This paper provides an update to the committee on key areas of activity relating to the Health and Care Professions Tribunal Service (HCPTS), including:

- Summary of activity
- FTP/HCPTS work updates
- PSA learning points
- Panel training
- Partner complaints, recruitment and feedback
- Training and resource update

### **Decision**

The Committee is asked to consider the update

### **Resource implications**

There are no resource implications arising from this update paper

### **Financial implications**

There are no financial implications arising from this update paper

### **Appendices**

Appendix 1 –Tribunal Services Report

### **Date of paper**

09 September 2019

**Tribunal Advisory Committee, 17 September 2019**

**Tribunal Services Report**

**1. Introduction**

- 1.1 This paper summarises a number of key areas of relevant activity relating to the Health and Care Professions Tribunal Service (HCPTS).
- 1.2 It is intended that this summary provides a useful context to the Tribunal Advisory Committee (TAC), and follows a similar format of previous reports.

**2. Summary of Tribunal Services activity**

- 2.1 Set out below is a summary of key statistics:

**May 2019 – Aug 2019 activity:**

Cases concluded at final hearing	Final hearings adjourned/ part heard	Review hearings concluded	Cases in review cycle	Interim Order applications considered	Interim Orders reviewed	Ongoing Post-ICP
129	17	78	167	56	75	410

- 2.2. Between May 2019– Aug 2019, the numbers of cases that were adjourned or part heard were slightly below forecast. We had a high level of activity in August with 43 concluded final hearings, only 2 cases were adjourned and one was part-heard. The numbers of hearings that are not well found have fallen slightly compared to previous months. However, we continue to review the numbers and initiatives to review the cases were discussed at the last Decision Review Group (DRG) meeting in July (further information below).
- 2.3. There has been a high level of hearings activity over the last 3-4 months in order to ensure social work cases are progressed, and where possible concluded prior to the transfer in December. This high level of activity will continue until November.
- 2.4. We have also been working closely with our colleagues in the Case Preparation and Conclusion (CPC) team in order to ensure that any cases with an interim order are progressed and concluded as quickly as possible.
- 2.5. The time taken to schedule a hearing from the point of it being ready to fix remains consistent and continues to contribute to the department’s efforts to reduce the overall length of time it takes for a case to conclude.

### 3. FTP/HCPTS activity update

- 3.1 The HCPC/HCPTS Decision Review Group (DRG) meets on a quarterly basis to review the quality of case management and decision making by Panels. The purpose of the group is to support proactive organisational learning with particular emphasis on issues affecting key elements of the case management and tribunal processes.

The last meeting took place in July 2019. Key areas of discussion included:

- PSA feedback summary / observations (Jan- Mar 2019)
- Adjourned ICPs
- NWF analysis and action plan

The PSA feedback summary highlighted that the volume of feedback was consistent with previous reporting periods and represented a very small number of decisions. The feedback identified the following issues:

- Case Management
  - Investigation of underlying health concerns
  - Allegation drafting
  - Lack of evidence to support allegations
- Panel Decisions
  - Lack of reasoning
  - Errors in reasoning
  - Guidance from the Legal Assessor
  - Self-contained decisions

The Investigations team provided information on recent numbers of adjourned ICPs which was about 15% of cases heard (slightly higher than they had anticipated). A number of actions were agreed, including further information in the FTP Partner newsletter, updates to panel training as well as team specific actions. The numbers will be reviewed again at the next DRG in November.

The DRG discussed and put in place a not well found action plan which sets out initiatives aimed at addressing the numbers of cases that are not well found. For example, improving registrant engagement at ICP, ongoing learning from panel decisions, triggers for reviews of cases, witness support and engagement measures, use of discontinuance and consensual disposal and competence allegations. The action plan has been informed by our analysis of not well found outcomes and work with our external legal provider. It also has an end to end focus.

- 3.2 In July the UK government published their response to the Promoting professionalism, reforming regulation consultation.

The response prioritises three things:

- Modern and effective fitness to practise processes;
- Better support for professionals; and
- More responsive and accountable regulation.

The report also identified the effectiveness of HCPC's model of regulation and the opportunities to expand it.

HCPC will continue to collaborate and work with Government, other regulators and key stakeholders to take forward the proposed changes.

- 3.3 In August, the Professional Standards Authority (PSA) published its annual Performance Report on the HCPC. We continue to meet four of the ten standards for Fitness to Practise. It's acknowledged that the PSA's review covers the period before the implementation of the FtP improvement plan. In their report, the PSA recognise the scale of work and efforts made and acknowledge it is too soon to judge the impact of the changes introduced.

The focus in the coming year will be to manage the increasing number of concerns we are receiving, and improve the timeliness and quality of the process whilst supporting the effective transfer of social workers from our Register to Social Work England.

- 3.4 The transfer date for the regulation of social work has been confirmed as Monday 2<sup>nd</sup> December and operational planning for the transfer has begun. The HCPC remains the regulator of social workers until the transfer date and as such we will continue to list all types of hearings until the transfer date. We will ensure that all existing interim and substantive orders are reviewed prior to transfer.
- 3.5 In July, the specialist ICP Chair pilot formally came to an end and following the mid-point review we are in the process of reviewing the case outcomes and quality of decisions for the period Apr – Jun 2019. We will also continue to informally review outcomes for the next 3 months and track cases through to a final hearing in order to properly consider whether the pilot has met its objectives.
- 3.6 The new sanctions policy went live on 15<sup>th</sup> July. The majority of FTP Partners completed the e-learning module. The Partners team are following up with individuals who have not completed the module. The launch was smooth with no issues.

#### **4. PSA Learning points**

- 4.1 In June we received nine learning points which related to the period January to March 2019. Five cases related to not well found outcomes, one related to a Suspension Order, one related to a Conditions of Practice Order and another to a Caution Order. The final case related to a no further action outcome. Some of the issues raised by the learning points included:

- Length of time to investigate and failure to investigate potential health concerns
- Lack of finding at grounds stage
- Issues with Panel's approach to impairment and consideration of public interest
- Brief reasoning and consideration of mitigation at misconduct stage
- Failure to consider imposing conditions of practice
- Too much weight placed on registrant's personal circumstances
- Ensuring the decision was self-contained and easily understood.

## **5. Training programme**

- 5.1 The existing training programme for all Panellists, Panel Chairs and Legal Assessors continues as planned. Since the last TAC meeting, new Panel Member and refresher training has taken place.
- 5.2 The Tribunal Service Managers are working with other Operational Managers, the Partners team and Organisational Development to refresh the FTP Partner training material for 2019-20. This will be rolled out in Sept/ October 2019.

## **6. Partner complaints, recruitment and feedback**

- 6.1 We continue to work with the Partners team to respond to any complaints or concerns raised. There are no current matters being dealt with.
- 6.2 In relation to partner recruitment, interviews for Hearing Aid Dispensers, Paramedics and Radiographers are taking place in September.

## **7. HCPTS training and resource update**

- 7.1 In September 2019, team members will attend a talk from Mr James Titcombe titled 'Valuing the Patient's Voice.' Mr Titcombe is a patient safety specialist who is able to offer a powerful insight into the impact of complaints handling within the NHS and by regulators. This is informed through his experience of trying to find answers as to why his baby son died whilst in the care of the Morecambe Bay NHS Foundation Trust maternity unit and his subsequent interaction with the NMC. The session will address a number of the themes that arose out of the PSA's Lessons Learned Review of the NMC's handling of concerns about midwives' fitness to practise at the Morecambe Bay NHS Trust.
- 7.2 In September we will welcome back one of our Scheduling Team Managers from maternity leave. Following this the hearings and scheduling teams will both be at full complement with no current vacancies.