

Tribunal Advisory Committee, 9 June 2020

Partner team operational report

Executive summary

Introduction

The purpose of this paper is to inform the Committee of the Partner team and its activity, provide statistics on panelist numbers and turnover (overall numbers including Panel Members, Panel Chairs and Legal Assessors), and provide information on upcoming recruitment and training activity.

Information system project update

The Partner Portal upgrade major project has been completed and the system has successfully upgraded to not only a new version but a new interface. Phase 2 of the project has been delayed due to the current situation as it requires external consultant input. This will be picked up after lockdown and we will consider additional enhancements to the current system as well as fixes.

Performance Review Project

The purchase of 200 licenses for 360 Feedback has been completed and Kallidus has provided two implementation phases. These were completed on 11 February 2020. The questionnaires for panel members, panel chairs and legal assessors have now been built and implemented. The UAT phase started on 2 March 2020 and ran for two weeks with a limited number of FTP partners. All feedback has been very positive and considered before starting the pilot which will allow us to review further the operational impact and external feedback. Further licenses for remaining FTP partners will be purchased after the pilot has been completed. Due to the new implementation and limitations of virtual hearings, we have decided to postpone the launch.

Partner numbers and turnover

Appendix A shows the numbers of HCPC partners per month and the correlation of voluntary resignations, eight-year rule and terminations in relation to the total number of partners. We received only five resignations since January due to work commitments.

Partner Expense Policy

The Partner Expense Policy has been reviewed and signed off by the Remuneration Committee. The majority of changes were small and added further clarification to the policy but one change will impact on partners – in particular FTP partners. RemCom has decided that partners will only allowed to book hotels with a cooperate rate in

London which will be restricted to three Travelodge hotels in the near vicinity of the HCPC offices in London. The rate for these hotels will be £120 including breakfast which will be huge saving for the organization. The policy came into effect on 1 April 2020.

Partner Fees Review

The Partner fee review has been completed and implemented. A 2% increase inline with employee increases has been applied to all partner roles with the exception of legal assessors and CPD assessors. CPD assessor fees will be looked at separately while legal assessors were paid above the benchmark.

HR Restructure

The Partner Team and the HR department have been restructured and responsibilities have been reassigned. The former Partner administrators are now HR Generalists which means they also provide support to HCPC employees as well as Partners. There is no longer the role of the Partner coordinator and the Partner Manager now oversees HR operations as well as Partners.

Panelist recruitment and training activity

The table below details the activity for the latest recruitment campaign for panel members.

Recent and planned panelist recruitment activity

Role	Required	Applicants	Interviewed	Appointed
Panel Member PYL	6	10	8	tbc
Panel Member AS	3	9	6	tbc
Panel Member HAD	3	10	8	tbc
Panel Member BS	3-5	69	17	tbc
Panel Member DT	3-5	39	10	tbc

Interviews will held virtually in July 2020

Training

All training has been postponed due to lockdown and we are currently looking at alternative methods of providing training to partners.

Contract extension, self-assessments and 8-year rule

A total of 50 contract extensions have been completed since April. Seven member/chairs contracts came to an end in April 2019 and six in December 2019. We lost 34 panel member and one panel chair due to the transfer of social workers to Social

Work England in December 2019. A total of 17 panel member/chairs will end their contracts in July/August 2020.

Decision

The Committee is asked to note the information provided.

Resource implications

None

Financial implications

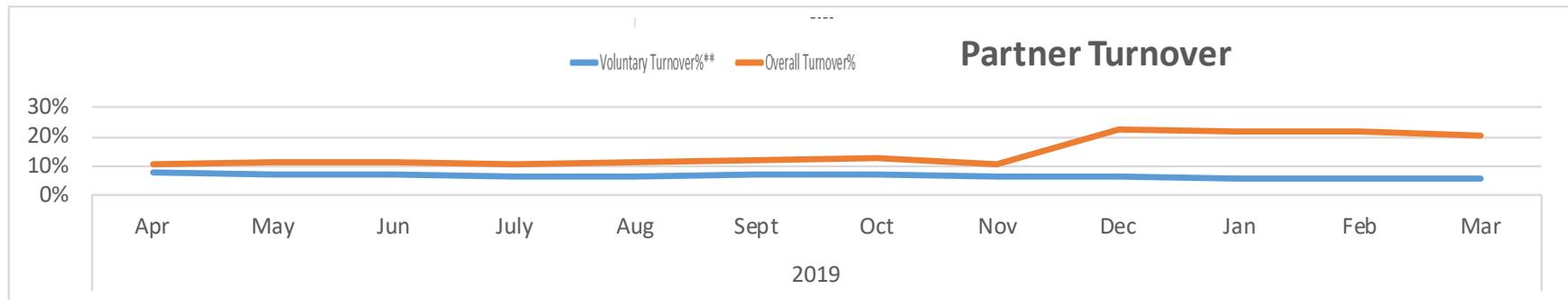
None

Appendices

Appendix A – Partner Numbers and turnover 2019 – 2020

Date of paper

June 2020



Partner turnover

	2019												2020												19/20
	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	YTD
Voluntary Resignations	3	4	1	8	2	7	4	2	4	2	1	1	0	1										33	
8-year rule*	0	6	0	0	0	0	0	0	13	0	0	0	0	0										13	
Terminations**	0	0	1	1	2	6	0	0	70	0	0	0	0	0										80	
Total Leavers (Vol & Comp)	3	10	2	9	4	13	4	2	87	2	1	1	0	1										126	
Partners	707	699	708	699	695	682	678	688	642	640	639	642	642	641										666	
Voluntary Turnover%**	8%	7%	7%	7%	7%	7%	7%	7%	6%	6%	6%	6%	5%	5%										5%	
Overall Turnover%	11%	11%	11%	11%	11%	12%	12%	10%	22%	22%	22%	20%	20%	19%										19%	

*Including failed renewal assessment

** Termination incl. temp contract

Turnover information does not capture those Partners who move from one role to another or those who leave one role and remain in another

YTD = Year to date

HCPTS TAC Meeting – DRAFT Report from Philip Geering

9 June 2020.

Panel Chair Appointments

The appointments of a number of FTP panel Chairs come to an end with summer. Consideration has been given to extending those appointments to better resource the HCPTS in the short to medium term to deal with the post-lockdown backlog of hearings. The conclusion of discussions is that at this stage it is not possible to extend appointments but an immediate avenue to achieve the required resource is in hand.

This paper sets out some backgrounds to the matter, identifies a possible way forward in the longer term, and invites TAC members to note the contents and offer any additional advice that may be considered appropriate.

Background

1. The appointments of FTP panellists, including panel Chairs, is limited in duration by law.
2. Part 2 of The Health and Care Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009 states: *'(5) No person may be a member of one or more Practice Committees for more than an aggregate of 8 years during any period of 20 years but, for the purpose of computing that aggregate, any service as a member of a Practice Committee prior to July 2007 is to be discounted'*.
3. The appointments of a number of FTP panel Chairs come to an end with summer. Some of those panel Chairs suggested to the HCPTS that their appointments be extended. Aside from any personal interest (which I declare), the proposal of extending appointments was made as a suggestion to enable the HCPTS to better cope during and after the current Covid 19 pandemic. In particular, there is a backlog of cases accumulated during the lock-down period and which may continue to accumulate while restrictions remain in force.
4. Uta Pollmann, Head of Partners and HR Operations, had also given consideration to extending panel Chair appointments. This was an issue she had considered approximately two years ago soon after joining HCPC, though she was then advised by the HCPC lawyers that it was not possible in law to extend appointments beyond the legal limit. It was an option she returned to as part of a possible HCPC response to the pandemic. Fresh legal advice was sought, though to the same effect as before.
5. Broadly, the reasoning behind the proposal to extend panel Chair appointments went as follows:

- a. As a result of the pandemic and national lockdown, the HCPC/HCPTS is developing a backlog of cases and hearings to progress.
 - b. Historically, a limiting factor on the number of hearings that could be held each day was the number of hearing rooms available in Kennington (even allowing for the fact that additional hearing rooms are occasionally rented in each of the four home nations).
 - c. Hearing room capacity is now much less of a limiting factor: during the pandemic it has been demonstrated that a range of hearings can be held remotely using internet platforms such as Zoom, Microsoft Teams, and Skype. Indeed, the pandemic has, arguably, accelerated innovation in this regard and demonstrated that some hearings can be held effectively, efficiently and indeed economically using technology.
 - d. Remote hearings are likely, therefore, to be used in the future and may provide one means by which the backlog of hearings can be dealt with.
 - e. The risk is that the availability of panel Chairs may well become a limiting factor on the number of hearings that can be held. That arises for obvious reasons: the pool of panel Chairs is limited and not every Chair is permanently available. In addition, it may well be that not all Chairs will be willing to travel to London post-lockdown: London was a hotspot of the pandemic; it is densely populated; and the prospect of travelling by train, tube and/or bus will not appeal, particularly given the demographics of the Chairs.
 - f. Given the backlog, it will be important to have experienced Chairs who can progress hearings efficiently.
 - g. It is also possible that the pandemic will produce cases giving rise to difficult or controversial cases when, perhaps, healthcare professionals have acted beyond the limits of their expertise to cope with the pandemic. Such cases will benefit from having experienced Chairs to conduct hearings.
6. It was with these thoughts in mind, that consideration was given to extending the appointment of panel Chairs whose time was due to end in order to maximise the pool of available panel Chairs.
 7. However, faced with the legal advice, the HCPC does not propose extending the appointments of panel Chairs. Instead, the intention is to conduct an internal recruitment exercise inviting existing panellists to apply to be 'promoted' to Chair. FTP estimate that they need 5 additional Chairs to manage the backlog of cases.

Consideration

8. The law provides that appointments to the FTP panel role are for a maximum of 8 years.

9. I understand the legal advice recently obtained by the HCPC on this issue advised that appointments cannot be legally extended beyond the maximum limit without a change in the law, and it would be risky to extend appointments without a legal basis for doing so since the legitimacy of any hearings may be undermined if conducted by a Chair whose appointment had been extended without a legal basis for doing so.
10. I have not seen the legal advice. I do not therefore propose critiquing that advice.
11. The advice that it would be risky to extend Chair appointments without a legal basis makes sense. Aside from the law, it would be difficult for a Regulator to justify a adopting a process that ignored its own regulations.
12. However, advice that appointments cannot currently be legally extended would be frustrating if it does not also explain how extensions may be legally possible.
13. The law is a human construct, and as a human construct, humans can de-construct it and reconstruct it differently. To do so obviously requires due process. A process is provided in Section 60 of the Health Act 1999. Section 60 is a mechanism by which the Government can introduce secondary legislation to amend the legislation affecting the HCPC. It involves a process, but it is largely a paper exercise requiring an Order to be drafted, laid before Parliament (no debate) and brought into force when approved by the Privy Council.
14. The Department of Health will be used to getting secondary legislation. Indeed, it has done so recently for the NMC. The Nursing and Midwifery Council (Emergency Procedures) (Amendment) Rules 2020 was made on 27 March 2020 via the Privy Council and came into force on 31 March 2020. It provides for emergency arrangements to enable the NMC to conduct hearings during the pandemic crisis, for example enabling remote hearings, and which also enables the NMC to extend the appointments of panellists beyond the current legal time limit.
15. Whilst the obtaining of secondary legislation is relatively straight-forwards (relative to obtaining primary legislation in an Act of Parliament) it does involve a process and requires the engagement of the DoH, Parliamentary drafters, Ministers and the Privy Council. The internal recruitment route appears to be an easier way forward.
16. An internal recruitment exercise comes with advantages: it can be conducted by the HCPTS without involving any external body; internally appointed Chairs have the advantage of understanding HCPTS culture and ways of working; the last panellist recruitment round was particularly successful, with a large number of good-quality panellists being appointed; internal 'promotion' is a way of encouraging panellists and future recruitment rounds.
17. Whilst the internal recruitment route is therefore to be taken, the following is noted:

- a. It might be an option for the HCPC to approach the Department of Health now for its advice on the legal route for extending appointments so that the position is clarified; or
- b. If in two to six months' time, FTP does need more Chairs, the HCPC could go then to the DoH for advice on whether a legislative amendment could be obtained to allow for panellists to have their appointments extended and/or to allow for the re-appointment of former panellists and Chairs who have served the current maximum of 8 years; and
- c. The HCPC can contact the NMC for advice on its experience of obtaining secondary emergency legalisation.

Communication

18. Finally, consideration could be given to communicating to the Chairs who are leaving this summer. There has been some communication already. However, there is remaining regret that a way has not been found to keep Chairs to help out with the backlog. A further communication could (a) re-assure Chairs that consideration was given to extending appointments but the legal advice was that a change in the law would be required and (b) another way of meeting demand was found with an internal recruitment exercise, albeit that (c) if the need arises, further consideration will be given to calling on former Chairs and a legal route can be achieved.

Conclusion

19. TAC members are invited to note the contents of this paper, to share relevant insights from other regulators, to comment on the issues raised and offer any further thoughts regarding handling.

Philip Geering

TAC Member/Panel Chair

May 2020.