

A N N U A L R E P O R T 04

Fitness to Practise

Fitness to Practise annual report

2003 to 2004

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Foreword

Welcome to the 2003/2004 Fitness to Practise Annual Report of the Health Professions Council (HPC). The primary aim of the HPC is to protect the public. We achieve this by keeping a register of practitioners from the twelve health professions we regulate and by setting Standards of Proficiency, Conduct, Performance and Ethics. We currently regulate approximately 145,000 registrants and this number is set to increase as new professions are included on the Register.

When we say that someone is fit to practise, we mean that they have the skills, knowledge, character and health to practice safely and effectively. We also mean that we trust them to act within their professional scope of practice.

The Health Professions Council (HPC) moved into the Second Transitional Period on 9 July 2003 and from that date the three Practice Committees, Investigating, Conduct & Competence and Health began working under the set of rules derived from the Health Professions Order 2001.

The first hearing under the new rules took place in October 2003 and since then we have seen a significant increase in allegations being made against health professionals. These are coming from a variety of sources, police, employers, other health professionals and members of the public.

We believe this reflects the increased range of powers that HPC has to deal with fitness to practice issues, as it is our belief that standards across the professions remain exceptionally high. Previously under the Council for Professions Supplementary to Medicine (CPSM) rules, the only course of protective action for the regulator would be for someone to be deemed guilty of infamous conduct, resulting in their name being removed from the register. Given the severity of evidence required for an infamous conduct case to be heard, there was little the regulator could do if someone's fitness to practise had been impaired but it had not been considered severe enough to bring their profession into disrepute. In cases such as this the individual was simply allowed to carry on practising meaning the public and the reputation of the professions involved were not adequately protected.

Our new rules now mean that we can take health, conduct and competence into consideration when considering a fitness to practise case. It puts public protection at the fore and gives us a range of sanctions which can be imposed, from allowing professionals to regain their fitness to practise and continue in their careers, through to the ultimate sanction of removal from the register.

This report presents to you how Practice Committee Panels have handled the cases brought before them. It will give an insight into how we have used the range of sanctions mentioned above to either help or remove registrants whose fitness to practise has been impaired. Removal from the register now effectively means removal from the profession, as professional titles are now protected by law. Striking off is only used in the most severe cases and I believe that the new system overall is far more cognisant of the rights of our health professionals than ever before - while still meeting the primary objective of protecting the public.

I hope you find the document interesting and of use to you in understanding a bit more about the work of the Health Professions Council.



Professor Norma Brook
President

Role of the Health Professions Council

The primary role of the Health Professions Council is protection of the public. The aim of the fitness to practise panels when considering cases is to decide if they need to take action to protect the public.

What type of complaints do we consider?

The Health Professions Order 2001 Article 22 (1) sets out the types of allegations regarding a registrant's fitness to practise that the Health Professions Council can consider.

The HPC considers allegations that a registrant's fitness to practise is impaired by reason of the following:

- Misconduct
- Lack of competence
- A conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere, which if committed in England and Wales, would constitute a criminal offence
- Physical or mental health
- Determination by another UK health or social care regulator

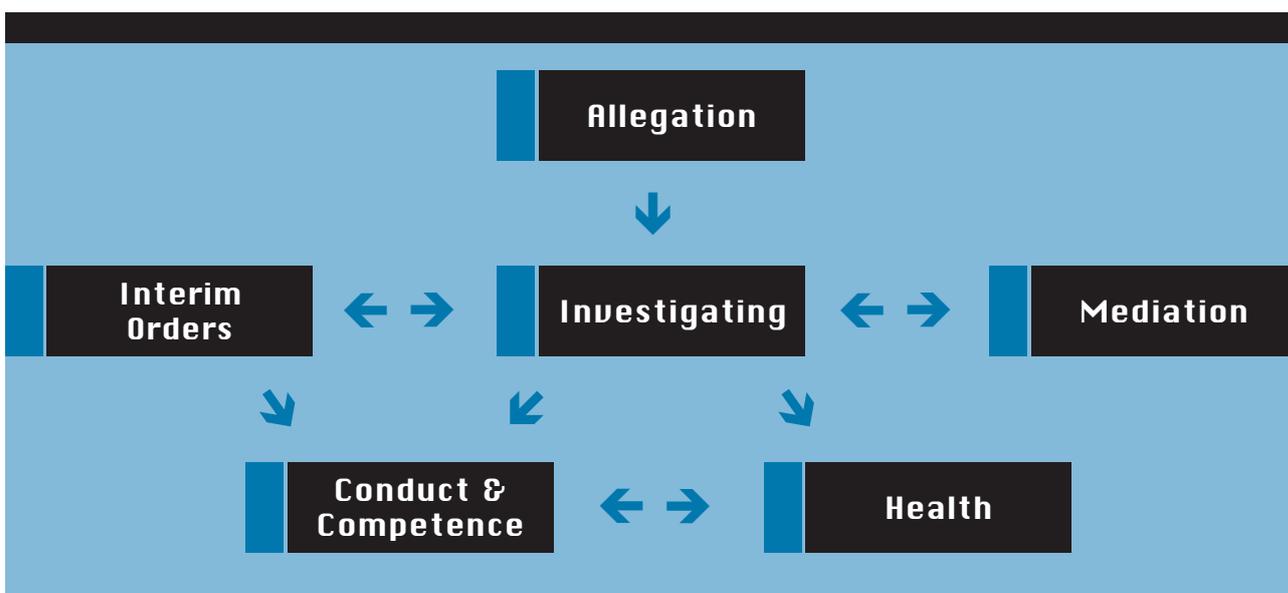
The HPC can also consider allegations to the effect that an entry in the register relating to him has been fraudulently procured or incorrectly made.

It is the role of the Investigating Committee Panel to consider whether there is a case to answer. The panel meets in private and consider the written documentation it receives. If it decides that there is a case to answer the Investigating Committee Panel may

- Undertake mediation
- Refer the case to the Health Committee (in the case of physical or mental health) or
- Refer the case to the Conduct and Competence Committee (in the case of all other types of fitness to practise allegation)

Allegations made under Article 22(1)(b) – fraudulent entry to the register are referred to another panel of the Investigating Committee. Fraudulent entry allegations are not about fitness to practise, they concern an entry to the Register being made fraudulently or incorrectly. The panel can either direct the Registrar to remove or amend a Register entry. We have heard one case of fraudulent entry since the inception of the Health Professions Council. The Registrar was directed to amend the entry.

Fitness to Practise process



Investigating Panel Decisions

What do panels do?

Panels must first decide whether the facts set out in the allegation are true and, if so, whether they amount to the ground (e.g. misconduct) set out in the allegation. Panels must decide whether the registrant's fitness to practise is impaired. When making their decision the panel are, in effect, deciding whether events in the past mean that the registrant currently presents a risk to the public.

Investigating panel decisions July 2003 – April 2004

Date	Number of allegations received	Allegations referred by screeners	Allegations referred by ICP*	No further action
July 03	11	10	2	8
Aug 03	7	5	3	2
Sept 03	16	10	6	4
Oct 03	19	17	12	5
Nov 03	14	13	7	7
Dec 03	7	6	4	1
Jan 04	12	11	5	4
Feb 04	9	8	5	1
Mar 04	20	18	Figures not yet available	Figures not yet available
Apr 04	15	14	Figures not yet available	Figures not yet available
Total	134	112	45	32

* Investigating Committee Panel

Investigating panel decisions July 2002 – June 2003

Date	Number of allegations	Referred to ICP*	Referred by ICP*	No further action
July	7	7	2	5
August	10	9	4	5
Sep	2	2	0	2
Oct	6	6	4	2
Nov	8	7	2	5
Dec	2	2	0	2
Jan	7	7	2	5
Feb	3	3	2	1
Mar	7	7	6	1
April	4	3	1	2
May	12	11	4	7
June	9	9	5	4
Total	77	73	32	41

* Investigating Committee Panel

Emerging trends and processes

New allegations

The figures show that there has been a 74% increase in the numbers of allegations received by the Health Professions Council in 2003-2004 compared to the last year of operations under the Professions Supplementary to Medicine Act.

Year	July 2002 - June 2003	July 2003 - April 2004
No. of allegations received	77	134

Who makes complaints about registrants?

Anyone can make a complaint about a registrant. The majority of complaints originate from the employer of the registrant. We also receive a large number of notification of cautions/convictions from the police. All 12 professions that we regulate are 'notifiable professions' and we are immediately informed if one of our registrants is convicted of or cautioned for an offence.

Date	Police	Employer	Self	Public	HPC	Co-Worker
July 03	3	5		2		1
Aug 03	1	3	2			1
Sep 03	1	5	3		1	1
Oct 03	3	6	3	6		1
Nov 03	1	6	1	5	1	
Dec 03	4	3				
Jan 04	5	5		3		
Feb 04	1	4		3		1
Mar 04	3	6	2	6	3	
Apr 04	2	9		3		1
Total	25	48	11	28	5	6

Public hearings – Conduct and Competence and Health panels

We are under an obligation to hold hearings in public, except when an application is made to hear the case in private. This may occur if the case is of a particularly sensitive nature, for example if a vulnerable witness is asked to give evidence. We are also under an obligation to hold hearings in the home country of the registrant concerned. We have designed Panel hearings to be informal, but nonetheless recognise the serious nature of what is being considered. Registrants can represent themselves if they wish to do so. Dates of upcoming hearings are published on the Health Professions Council's website. More information can be found at www.hpc-uk.org/legal/index.htm

New range of sanctions

The Health Professions Order provides a much greater range of sanctions than was provided for by the Professions Supplementary to Medicine Act (1960).

The Health Professions Order has been designed so that the primary role of sanctions is protection of the public. The process is non-punitive because the panel must maintain a balance between protection of the public and the rights of the registrant.

The available sanctions are:

- mediation
- to take no further action
- to caution the person concerned (for a period not less than one year and not more than five years)
- make a conditions of practice order (not exceeding three years)
- suspension (for a period not exceeding one year)
- striking off

Hearings

Number of Full Hearings heard under HPC rules	Cases Well Founded	Sanctions Imposed
22	21	21

Sanctions imposed by Final Hearing Panel's since 9th July 2003

Type of Sanctions	Numbers
Striking Off Order	7
Suspension Order	7
Conditions of Practice Order	4
Caution Order	3
No Further Action	0

Conduct and Competence Committee panel figures

Cases (HPC & Transitional Arrangements)	Cases Outstanding	Preliminary Meetings held	Outcomes
56	37	44	19

Health Committee Panels

Health Committee Panels consider cases allegations that a registrant's fitness to practise is impaired by reason of his/her mental or physical health. Since 9th July 2003, seven cases have been referred to Health Committee Panels on this basis. A striking off order may not be made in respect of health allegations, unless the person concerned has been continuously suspended or subject to a Conditions of Practice Order for a period of no less than two years.

The Health Committee Panel (figures) July 2003 – April 2004

Cases	Cases outstanding	Interim orders made	Preliminary meetings held	Outcomes
7	5	4	6	2

Interim Order Hearings

In certain circumstances, Practice Committee Panels may issue interim orders to impose Conditions of Practice or suspend a registrant until such a time as his/her case is heard. A Panel may only impose an interim suspension order if it is necessary to protect members of the public, to serve the public interest in another way or to serve the interests of the registrant. The order lasts until such time a final decision has been made in the case. (The power can only be exercised if it is in the best interest of the registrant (e.g. in the case of alcohol abuse) and protection of the public.)

Figures – July 2003-May 2004

Number of Interim Order Hearings	Number of Orders Granted	Number of Suspension Orders	Number of COP Orders
16	14	11	3

Council for the Regulation of Healthcare Professionals (CRHP)

CRHP is a statutory overarching body, covering all of the United Kingdom and separate from Government. CRHP was established in April 2003.

CRHP was established by the National Health Service and Health Professions Act 2002. It is a statutory overarching body that promotes best practice and consistency in the regulation of healthcare professionals by the nine healthcare regulatory bodies including the HPC.

CRHP may also refer a regulator's final decision on a fitness to practise case to the High Court (or its equivalent throughout the UK) for the protection of the public. I.e. If a decision is made by a regulatory body that is deemed to be too lenient, it can be referred to CRHP.

CRHP is answerable to Westminster Parliament. It is independent of the Department of Health.

Notes

Further Information

Copies of all HPC publications are available on our website or by contacting us at:

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Full details of Fitness to Practise hearings can be found on our website.



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