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MINUTES of the meeting of the Conduct and Competence Meeting of the Health Professions Council held at **2:00 p.m. on Tuesday 22nd July 2003** at the Novotel London City South, 53-61 Southwark Bridge Road, London SE1 9HH

PRESENT Dr. A.Yule, Chairman
Professor N Brook,
Dr. G Beastall
Mr. R Clegg,
Miss H. Davis,
Prof. C Lloyd,
Ms. J. Manning,
Mr. K Ross,
Mrs. B Stuart,
Mr. G Sutehall

IN ATTENDANCE

Mr T.C. Berrie, Secretary to the Committee
Mr. M. Seale, Chief Executive & Registrar
Mrs. A. Barnes, Director of Legal Services

03/13 Apologies for Absence

An apology was received from Dr. R. Jones and Ms. P. Sabine.

03/14 Approval of Agenda

Mr. Berrie informed the Committee that Enclosure 3 “Memorandum of Understanding for the investigating of serious untoward incidents relating to healthcare” had not been properly copied, but also that, inside, the word “restricted” had been included on some of the pages. Copies had therefore been printed on pink paper and would be distributed in private session. Subject to this change, it was **AGREED** that the agenda be approved.

03/15 Minutes of the meeting held on 19th March 2003

It was **AGREED** that the Minutes of the meeting held on 19 March 2003 be confirmed as a correct record and signed by the Chairman.

03/16 Chairman’s Report

The Chairman reported receipt of a letter from the Chief Executive and Registrar, asking all Committee Chairmen, with the Committees’ Secretaries to review the process used and the quality of the output for their individual projects for the period up to July 2003. This would

include the Committee's period as a shadow committee and working party. Once this task was completed, the Chief Executive and Registrar would ask the Secretary to brief the Executive on the conclusions of the report. While the agenda for the Council away-day had not yet been finalized, it might also be that this work would be of interest to all members of Council and therefore he intended to circulate the reports to them. The following were identified as the Committee's main projects during this period:

- Production of the Standards of Conduct, Performance and Ethics;
- Involvement in the drafting of the Practice Committee (Constitution) Rules and Conduct & Competence Committee Rules;
- Involvement in the consultation process;
- Devising the process for dealing with queries seeking advice on conduct, performance, ethics and health.

It was **AGREED** the Secretary, Chairman and Deputy Chairman produce the draft report for submission to the next meeting.

Action: TB/SY/KR

03/17 Secretary's Report

- The Council would need to appoint a registered medical practitioner to the Committee, in accordance with the Health Professions Order. However, Professor Brook commented that the need for this requirement, which was also included in the Nursing and Midwifery Order, had been challenged by the Nursing and Midwifery Council at a conference the previous day. It was also clear from that conference that the Social Care Council did not have such requirements in relation to its practice committees. The Committee, whilst agreeing that it was appropriate that the Health Committee be required to have a member who was a registered medical practitioner, questioned the necessity for the Conduct and Competence Committee to do so. It was **AGREED** that this view be put to the next Council meeting with the suggestion that the Council might wish to discuss this with the Privy Council Office and officials of the Department of Health, with a view to the possible removal of this requirement at a later date.

Action: SY/TB

- Training for panel members would begin in August, and the first training days had now been set for 5th, 8th and 15th August, to be led by Mr. J. Bracken and Mr. S. Hill. Others were being planned. Mr. Berrie tabled copies of proposed programme and reported that he and Mrs. Barnes would be attending all of them. Council members and partners who had been appointed as practice committee panel members were both invited. Members were asked to send any comments on the draft programme to Mrs. Barnes as soon as possible.

Action: AB

- This training was the priority. Training for members as members of the Committee, including in ethics etc, had not been forgotten, but would take place later in the year or early next year.
- As Secretary to the Committee and a part of his own CPD, he would be attending the five-day, health ethics course at Imperial College London, 15th to 19th September.
- On 24th April he had attended the first of what would be a series of one-day workshop on reforming the complaints procedures, organized by the Harrogate Management Centre people. No reference had been made to the involvement of statutory regulatory bodies, a comment which he had included in my end-of-day questionnaire and he had offered himself as a possible future speaker on regulation of health professionals. The next one was to be held in Harrogate on 19th September. He was also keeping a watch on the Shipman Inquiry process, to see if its proceedings and possible conclusions had any bearing on the Council and the Committee's work.

03/18 Appointment of Deputy Chairman

In accordance with Rule 4 of the Practice Committees (Constitution) Rules 2003 and there being no other nominations, it was **AGREED** that the Council be recommended to appoint Mr. K. Ross as the Deputy Chairman of the Committee.

SUBJECT TO RATIFICATION BY THE COUNCIL

Action: TB/SY

03/19 Process for dealing with queries seeking advice on conduct, performance, ethics and health (Ref. 02/40.3)

The Committee, as the Working Party had began to discuss this the previous November. The Council's general guidance was in the Standards of Conduct, Performance and Ethics document, but it would also need to give more specific, day-to-day guidance on conduct, performance and ethics, but also "good character and health" issues. It was recommended that, at this stage, this be met by

- A system of dealing with day-to-day queries
- Developing, after receiving several months of these, a "frequently asked questions" item for the website.

A draft proposed *Process for dealing with queries seeking advice on conduct, performance, ethics and health* had been included with the agenda and was considered by the Committee.

It was

RESOLVED

That (1) the following process be agreed.

- Registrants should address such queries, whether by post, fax, email or telephone, to the Chief Executive and Registrar.

- If another member of staff or a member of Council receives such a query, they will forward it immediately to the Chief Executive and Registrar.
- For any queries which are of a **legal** nature, the Chief Executive and Registrar will consult the Council’s lawyers.
- For any queries which are **profession-specific**, the Chief Executive and Registrar will forward them to the Director responsible for that particular profession, who will consult, in the first instance, the Council member for that profession and/or the alternate member. They may also want to consult appropriate Council partners, at that Director’s discretion. In considering a query, the Director, and members and partners consulted, will have regard to the Standards of Conduct, Performance & Ethics and to the Standards of Proficiency; but also, if they exist, they may wish to consult the professional codes of conduct for that profession. Upon receipt of the advice, the Director will give the enquirer this advice on the Chief Executive and Registrar’s behalf.
- For any queries which are not legal or profession-specific, i.e. are a matter of **general conduct, ethics, character or health**, the Chief Executive and Registrar will refer them to the Conduct & Competence Committee for its consideration and advice; at his discretion, this will be
 - via email to the Chairman and/or Deputy Chairman, or
 - via email to each member, or
 - to a meeting of the Committee.
 The Chairman/Deputy Chairman/Committee will have regard to the Standards of Conduct, Performance & Ethics and to the Standards of Proficiency in considering any query.
- If the Chief Executive and Registrar, Council’s lawyers, a Director or the Chairman/Deputy Chairman of the Conduct & Competence Committee believe, that, as a result of a query or set of queries received on a particular matter, amendment to the Standards of Conduct, Performance & Ethics or the Standards of Proficiency may be required, they will so recommend to the Conduct & Competence Committee and Education & Training Committee respectively, via the relevant Committee Secretary.

and (2) that this process be monitored and audited in order that it be reviewed by the Committee in one year’s time.

Action: TB

It was **AGREED** that a copy of the above process be passed to the Investigating and Health Committees for information.

Action: TB

03/20 The Practice Committees (Constitution) Rules 2003 and the Conduct and Competence Committee (Procedure) Rules 2003

The Committee noted copies of the above which had been included with the agenda.

03/21 “Benchbook” for panels

Mr. Berrie and Mrs Barnes reported that Mr. J Bracken had informed them that the “benchbooks” giving guidance to panels and the legal assessors were nearing completion.

03/22 Other Business

1. Query on Standards document relating to danger and risk

The Committee considered a query received on the Standards of Conduct, Performance & Ethics regarding the terms 'danger' and 'risk' applied to patients, under the heading 'Main responsibilities of health professionals' professionals are required not to 'do anything that...will put the health or safety of a patient in danger'. The query, from a professor of medical physics, was as follows. "Danger and risk are inherent in consenting to a clinical intervention. They are also inherent in a patient's refusal of consent for an intervention. Under the heading 'Main responsibilities of health professionals' professionals are required not to 'do anything that...will put the health or safety of a patient in danger'. What can this mean? If it means that professionals should not do anything which has net detriment to a patient's health (ie where the risk exceeds the potential benefit) then the text of the booklet should make that clear. Unconditioned statements about danger and risk are inadequate for that purpose. Similarly, professionals are enjoined to hold discussions with a senior professional colleague as soon as they become aware of any situation which puts a patient client or user at risk. This is hardly practicable advice for a radiographer who routinely carries out procedures which have a well characterised risk of induction of fatal cancer. Again we are forced to ask ' what can this mean?'. A much clearer statement is required." Members commented that the Standards document contained the Council's "guidance" on standards of conduct, performance and ethics, and was not a detailed code. Practitioners were expected to use their judgment as professionals at all times in their practice. Further, as set out in item 9 of the document, practitioners were required to receive informed consent from the patient, and all that that entailed, except in emergency. The latter would need to be left to the professional judgment of the practitioner. It was **AGREED** that the enquirer be informed of the above comments, and that the Committee had looked at the wording, agreed that changes would not be necessary at this stage, but would include the points raised when, in due course, the document would be reviewed.

Action: TB

2. Record-Keeping

Prof. Brook reported that as Council President she had very recently attended a meeting organized by the Department of Health regarding major funding which it was proposed would be made available for improving standards of information and communication in the NHS. One project which would likely arise from this was to introduce proposals for improving and setting standards in record-keeping. The Council would be asked to send two representatives on an advisory panel to facilitate this. Ideally, one representative would be a member of staff and one either a registrant member or partner. The Chief Executive and Registrar recommended that Mr. R. Dunn, as Director responsible for the Council's information technology, be the staff member. Prof. Brook and Dr. Yule agreed to produce the name of a suitable Council member or partner, should this be agreed by the Committee. One possible course of action was for the Committee to establish a working group from its members, but co-

opting Council partners should this be appropriate, to produce a policy to recommend to the Committee. It was **AGREED** that, before any further action be taken, Professor Brook be asked to ascertain exactly what the work would involve.

Action: NB

03/23 Date of Next Meeting

It was noted that the next meeting was on 23rd September 2003 at 2:00 p.m., preceded by lunch.

CHAIRMAN
23rd September 2003