

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

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MINUTES of the twelfth meeting of the Conduct and Competence Committee held at **11:00am on Tuesday 16th November 2004** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Dr S Yule (Chairman)
 Mr R Clegg
 Professor C Lloyd
 Mr K Ross
 Mr G Sutehall

IN ATTENDANCE:

Professor N Brook (President)
 Ms S Butcher, Secretary to Committees
 Mr M Guthrie, Case Manager
 Ms N O'Sullivan, Secretary to Council
 Mr M Seale, Chief Executive and Registrar

Item 1.04/27 INTRODUCTION AND WELCOME

- 1.1 The Chairman welcomed Mr Ken Brown to the meeting who was the President of the British Psychological Society. He was attending as a member of the public observing proceedings.
- 2.2 The Committee noted that Miss Johnson, Director of Fitness to Practise was on holiday and that Mr Guthrie was attending the meeting in her place.

Item 2.04/28 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following Conduct and Competence Committee members; Dr G Beastall, Ms H Davis, Ms J Manning, Miss P Sabine and Mrs B Stuart.

Item 3.04/29 APPROVAL OF AGENDA

- 3.1 The Conduct and Competence Committee approved the agenda.

Item 4.04/30 MINUTES

- 4.1 It was agreed that the minutes of the eleventh meeting of the Conduct and Competence Committee meeting be confirmed as a true record and signed by the Chairman.

Item 5.04/31 MATTERS ARISING5.1 Item 4.1.1 – Project Plan

- 5.1.1 The Conduct and Competence Committee noted that the project plan scheduling the work of the Committee throughout the year was still ongoing.

Action: KJ5.2 Item 4.1.2 – Review of Standards of Conduct, Performance and Ethics (SCPE)

- 5.2.1 The Conduct and Competence Committee noted that the review process of the Standards of Conduct, Performance and Ethics (SCPE) was an ongoing task.

Action: KJ5.3 Item 4.1.3 – Strategic Policy

- 5.3.1 The Conduct and Competence Committee noted that the paper on ‘Managing your Fitness to Practise’ was approved (subject to amendments) by the Education and Training Committee meeting on Wednesday 13th October 2004. The paper would then go to Council for final ratification at its next meeting on Tuesday 7th December 2004.

5.4 Item 5.1.1 - Fitness to Practise Presentation

- 5.4.1 The Conduct and Competence Committee noted that the presentations given by the Fitness to Practise Chairmen at the Council ‘Away Day’ in October would shortly be put on the Councils members’ section of the HPC website.

Action: SB5.5 Item 7.6 Sanctions

- 5.5.1 The Conduct and Competence Committee noted that the paper on ‘Sanctions’ was to go to Council for final ratification at its next meeting on Tuesday 7th December 2004.

5.6 Item 10.3 - Allegations

- 5.6.1 The Conduct and Competence Committee noted that the paper on ‘Allegations’ was to go to Council for final ratification at its next meeting on Tuesday 7th December 2004.

5.7 Item 12.3 – Information for Panel Chairs

- 5.7.1 The Conduct and Competence Committee noted that at its last meeting it was agreed the Executive would produce a crib sheet in addition to the guidance which had been issued for panel chairs on how to present a case. The Committee noted that this was still ongoing.

Action: KJ

5.8 Item 14.2 – List of Upcoming Papers

- 5.8.1 The Conduct and Competence Committee noted that work was ongoing on papers on Witness Support and Restorations. The Committee noted that the paper on Self-Referrals would go to the next Education and Training Committee meeting scheduled for Wednesday 16 February 2005 for its approval. The paper would be put to Council as a paper to note.

Action: KJ

5.9 Sanctions

- 5.9.1 The Conduct and Competence Committee noted that registrants often failed to attend hearings when their conditions of practise were being reviewed. The Committee were concerned that registrants were perhaps not completely aware of the implications of their non-attendance and that it was difficult for a panel to review the effectiveness of a sanction if the registrant failed to attend the panel. The Committee was concerned that registrants should understand that a sanction did not expire automatically at the end of the period for which it was imposed and that it could be extended or amended when it was renewed.

- 5.9.2 The Conduct and Competence Committee noted that the Executive would re-examine the standard letters sent to registrants and should clarify the registrant's role at their review hearing. This would additionally be considered at the Legal Assessor Review Day on Wednesday 24th November 2004.

Action: KJ

- 5.9.3 The Conduct and Competence Committee agreed that the Standards of Conduct, Performance and Ethics should be reviewed in the near future to ensure that clear guidance was provided on the meanings of confidentiality and personal conduct as a health professional. This subject would be put on the agenda for the next meeting of the Conduct and Competence Committee scheduled for Tuesday 15th February 2005.

Action: KJ/SB

Item 6.04/32 CHAIRMAN'S REPORT

- 6.1 The Conduct and Competence Committee received an oral report from the Chairman.
- 6.2 The Chairman noted that the Conduct and Competence panels had been very busy with hearings but that overall there was little to report due to the short time scale between this and the last meeting.

Item 7.04/33 DIRECTOR OF FITNESS TO PRACTISE REPORT

- 7.1 The Conduct and Competence Committee noted that in the absence of the Director of Fitness to Practise who was on annual leave, Mr Guthrie, Hearing Officer, would be available to answer queries where possible on the Fitness to Practise Report.
- 7.2 The Conduct and Competence Committee noted that a glossary should be included in the report to explain the acronyms used. It was also agreed that numbered pages are included and titles produced in full.

Action: KJ

- 7.3 The Conduct and Competence Committee noted that the AODP had transferred 15 disciplinary cases to the HPC. The Committee noted that of those cases 5 were not ODP's. The Committee expressed concern that ODPs who were in the Fitness to Practise process could continue to practice and that therefore the public was not protected. The Committee agreed that further updates be provided at its next meeting scheduled for Tuesday 15th February 2005.

Action: KJ**Item 8.04/34 DATES OF FORTHCOMING CONDUCT AND COMPETENCE COMMITTEE MEETINGS 2005/06**

- 8.1 The Conduct and Competence Committee received a paper from the Secretary to the Committee for discussion/approval.
- 8.2 The Conduct and Competence Committee approved the proposed dates for its meetings scheduled in 2005-06 and recommended that Council did the same.

Action: SB

Item 9.04/35 STRATEGIC REVIEW

- 9.1 The Conduct and Competence Committee noted that at its last meeting it had agreed that this meeting should be devoted to discussion of strategic issues and that the Executive would not provide any background papers for the meeting.
- 9.2 The Conduct and Competence Committee noted that part of its role under Article 27 (in consultation with the other Practise Committees), was to produce a report, advising Council on:
- (i) *the performance of the Council's functions in relation to standards of conduct, performance and ethics expected of registrants and prospective registrants,*
 - (ii) *requirements as to good character and good health to be met by registrants and prospective registrants, and*
 - (iii) *the protection of the public from people whose fitness to practise is impaired.*
- 9.3 The Conduct and Competence Committee noted that it must produce the report to Council by the new financial year as of 1st April 2005. This would be achieved with assistance from the Executive who would provide the necessary analysis on strategic topics as identified by the Committee.
- 9.4 The Conduct and Competence Committee agreed that as it only met on average 4 times a year then it was necessary to plan and identify future items for discussion. By pinpointing specific themes for review its work would be comprehensively structured. The following topics were noted as possible ideas; 1: Statistics 2: Processes and Procedures 3: Documentation and 4: Annual Report. The Committee noted Article 44 (1) of the Health Professions Order stated that - *The Council shall publish at least once in each calendar year a statistical report which indicates the efficiency and effectiveness of the arrangements it has put in place to protect the public from persons whose fitness to practise is impaired, together with the Council's observations on the report.*
- 9.5 The Conduct and Competence Committee discussed the mechanisms by which the Standards of Conduct, Performance and Ethics (SCPE) would be reviewed. It was agreed that the Executive would produce a report on the sorts of SCPE themes that had been addressed by HPC so to enable the Committee to provide effective guidance. The legal aspects and duty of care which underpinned SCPE would also need to be incorporated to ensure a robust interpretation. It was agreed that the Executive would source codes of conduct issued by other professional bodies within the U.K. The Executive would therefore write formally to all Chairs and Vice-Chairs of the Practise Committees to request a meeting be held to undertake this work.

Action: KJ

- 9.6 The Conduct and Competence Committee noted the query that had been raised regarding how to deal with a case which involved a registrant who had made an allegation about a fellow registrant only to have found that a counter allegation had been made on the grounds of harassment. The Chief Executive reported that the Standards of Conduct, Performance and Ethics applied to all prospective registrants and that part of the role of the Conduct and Competence Committee was to give guidance on these. However, as this was a matter of good character as per Article 15(b) *'The Council shall from time to time establish – the requirements to be satisfied for admission to, and continued participation in, such education and training which may include requirements as to good health and good character'*; it would therefore fall within the responsibilities required of the Education and Training Committee.
- 9.7 The Conduct and Competence Committee agreed that an audit process was required which tracked and assessed the overall effectiveness of the decision making process currently undertaken by the fitness to practise panels. The Chief Executive reported that a report could be produced assessing outcomes and HPC's legal advisors, Kingsley and Apley would also be requested to submit their own report on HPC proceedings.

Action: KJ

- 9.8 The Conduct and Competence Committee discussed the competency framework by which fitness to practise panel Chair's performance could be equitably assessed. The Committee noted three options: 1: Issuing a tick sheet assessing the Chair's conduct. 2: Observers attending panel hearings which were randomly sampled and/or 3: Utilising Case Managers to review performance of Chairs as they were the persons who came into contact most frequently with panel members and therefore viewed to be the most informed on such matters. The Committee noted that the Executive would produce recommendations on the formal procedures that might be best executed with regard to assessment of performance. The Chief Executive requested that if any of the Committee members had identified further training needs for panel members and panel chairmen to write formally to him so that these matters could be addressed.

Action: KJ

- 9.9 The Conduct and Competence Committee discussed the process by which panel chairmen were appointed and training provided. The Committee noted that a proposal would be put to the next meeting of the Committee that Council members should not act in the capacity of panel chairmen. This would be put to a future meeting of Council for

ratification. The object of this proposal was to protect the HPC from accusations of any conflict of interest.

- 9.10 The Conduct and Competence Committee noted that the Executive would provide a comprehensive report so to further refine the matters of strategy it had identified here for their next meeting scheduled: Tuesday 15 February 2005. Any revision of the Standards of Conduct, Performance and Ethics would be put to Council for ratification. The Committee noted that this was in accordance with Article 21 that stated (3)(a): *The Council shall – before establishing any standards or arrangements mentioned in paragraph (1) or (2) consult the Conduct and Competence Committee in addition to the persons mentioned in article 3(14).* The Committee noted that the work in progress would be integrated into the overall fitness to practise procedures.

Action: KJ

Item 10/04/36 ANY OTHER BUSINESS

- 10.1 The Conduct and Competence Committee received one item of any other business regarding the appropriateness and relevance of giving details about cases which related to a person's mental health or well being on the HPC website. The Chief Executive confirmed that the Health Professions Council was obliged under Article 26 (7)(8)(9) to make public the decisions made by its fitness to practise panels. These decisions were drafted in accordance with the advice given by the HPC legal assessors. The Committee agreed that the matter would nevertheless be brought to the attention of the Legal Assessors at their Review Day on Wednesday 24th November 2004 for a possible re-assessment of the summaries produced.

Action: KJ

Item 11.04/37 DATE AND TIME OF NEXT MEETING

- 11.1 The next meeting of the Conduct and Competence Committee would be at 11:00am on Tuesday 15 February 2005.